



FAIRFAX TOWN COUNCIL MEETING SUPPLEMENTAL—STAFF REPORT

MEETING DATE March 6, 2024
PREPARED FOR Mayor and Town Council
PREPARED BY Linda Neal, Principal Planner
Jeff Beiswenger, Planning and Building Services Director
SUBJECT Supplement to Agenda Item #4 Appeal of Planning Commission action approving a Conditional Use Permit legalizing the improvement of the bedroom level of the residence and denying the requested Height Variance for the unpermitted ground floor level improvements, for the residential property at 80 Crest Road.
CEQA **Categorically exempt per sections 15301(a).**

This staff report and attached resolutions replace the previous versions.

RECOMMENDATION

Conduct the public hearing and then adopt Option A, Resolution No. 24-____ upholding the Planning Commission's October 17, 2019, action on the project including the conditions of approval, as stated in attached Resolution No. 2019-13 approving (legalizing) the unpermitted improvements to the bedroom level of the structure, but denying the unpermitted improvements to lowest, ground floor level of the structure.

Alternative Recommendation

The Town Council could conduct the public hearing and then adopt Option B, Resolution No. 24-____ upholding the Planning Commission's October 17, 2019 action on the project including the conditions of approval, as stated in attached Resolution No. 2019-13 approving (legalizing) the unpermitted improvements to the bedroom level of the structure, but denying the unpermitted improvements to lowest, ground floor level of the structure, and delaying enforcement, including issuance of permits for the approved (legalized) improvements, until such time as the property transfers ownership through sale, inheritance, or otherwise.

When the property ownership transfers to a new owner, the unpermitted improvements to the lowest, ground floor level of the structure, including the interior stairway from the first floor of the residence to the unpermitted ground floor area, shall be removed and the ground level underfloor area of the house shall be restored to its original condition except for any exterior walls or interior stability improvements, including but not limited to, full-height sheathed cripple walls, properly connected to the floor diaphragm above and the foundation below or comparable improvements approved by the Town Engineer. This can be accomplished by adding the following conditions to the resolution denying the appeal:

WHEREAS, As a result of the hardship request made by the appellants relating to the interior stairway access being necessary for them to safely access the wine room and workshop areas, the Town Council has agreed to allow the improvements frequently used by the applicants to remain within the subfloor foundation area until such time as the property transfers ownership. When the property transfers ownership, the wine cellar, workshop, flooring unnecessary to maintain the building foundation, and interior stairway between the subfloor foundation area and the bedroom level of the structure shall be removed. The Town shall place a Notice of Violation (NOV) on title to the property, recorded with the Marin County Recorder's Office, clearly stating that the lowest ground floor contains unpermitted

improvements which include but are not limited to, the interior stairway from the first floor of the residence to the unpermitted ground floor area, the wine room, the toilet and sink, two rear windows, any interior walls not required for structural stability of the permitted three floors of the house above, and any flooring not necessary for the maintenance of the house foundation; and

WHEREAS, at such time as the property changes ownership, the new owner shall request a building permit for the approved additions on the bedroom level of the house, those exterior and/or interior improvements necessary to retain the existing stability of the structure and any Fire District required improvements. At the same time, the new owner shall request a demolition permit for the ground level improvements, including the interior stairway from the first floor area to the ground level.

DISCUSSION

The property owners applied to the Planning Commission for a Conditional Use Permit and Height Variance to legalize as-built improvements to the residential structure for which the Town has no record of permit approval. These unpermitted improvements include:

Bedroom level: The Town's approved 1972 plan set- Attachment B- for the (then) new house shows 4 bedrooms, 2 bathrooms, a laundry closet and a hallway in what those plans refer to as the "lower floor" (called out as the "basement" in the Assessor's records – Attachment C, and the "second floor" in the appellant's current plans by Henry Taylor, Architect Attachment D).

The bedroom level now includes 681 square feet of new, unpermitted, subdivided living space including: a) 509 square feet of conditioned space including a sitting room, hallway, photo lab and closet; b) 172 square feet unconditioned office/storage, and closet; and c) existing bedroom four has been remodeled and subdivided into a second office and part of the hallway (see sheets 2 and 4 of the existing plan set – attachment D). The area includes a stairway down to the lowest level of the structure (lowest level shown as just a foundation with no access stairway in the approved 1972 original building permit plan set – see page three of the approved building permit plans – Attachment B).

Ground Level Story: This is shown on the approved 1972 Town plan set as an open area with foundation and support posts for the upper three stories with only half of the foundation area enclosed as foundation/crawlspace and is not called out as an improved level in the Marin County Tax Assessor's On-site Inspection Records for the property (See page four of Attachment B, the original building permit plans and the Marin County Tax Assessor's records – Attachment C – that show no fourth, ground floor level).

The area is now the lowest, split-level, ground floor. This level appears only on the appellant's recently submitted plan set and was constructed without permits underneath the existing permitted three-story structure bringing the height of the structure from an improved approximately thirty-three feet to approximately fifty-feet feet in height. Approximately 894 square feet of this space remains unconditioned, while approximately 126 square feet of the ground floor has been converted into a conditioned wine room. A toilet and sink have been added into the southwest corner of the area while the center space has been converted into a workshop. Electrical improvements (outlets, etc.) have been made throughout this area. See pages one and four of the building permit plan set - Attachment B – the approved exterior side elevation and foundation plan, and pages one and four of the as built plan set - Attachment D.

Three-hundred-sixty-six square feet of storage area complete with two new windows has been added to the ground floor in the western side of the building, and an access door and stairway have been built into the north side.

The owners have asserted that the improvements to the ground level were added with the original construction of the house in 1972, and were permitted by the Town, and the 509 square feet of conditioned space including a sitting room underneath the garage, and 172 square feet of unconditioned office/storage and closet, along with the remodeling of the fourth bedroom on the bedroom level of the residence were the only improvements done without permits.

The final inspection of the original house was for a three-level, 33-foot-tall structure and occurred on September 7, 1973. The approved plans were sent to be converted into a microfiche record #18 on September 13, 1973, and the three-level, four-bedroom, two-bathroom residence is what the Marin County Tax Assessor's Records show to exist on the site (Attachment C – County Assessment Records, final inspection card, and the building permit file jacket).

On October 17, 2019, the Planning Commission approved a Conditional Use Permit for the unpermitted improvements to the bedroom level of the structure but denied the unpermitted improvements to the ground floor level of the structure (Attachment E Planning Commission Resolution No. 2019-13).

Building Levels and Historic Height Limits

Ordinance 230, in effect from 10/11/61 to 3/13/73, limited residential heights to 30 feet (referring to the mean, living space, height) and contained no limit on the number of stories a single-family residential building could have, and did not define what constituted a story. This was the ordinance in effect when the structure at 80 Crest Road was being built. If the lowest level had been constructed with permits at that time, it would have required height variance approval because the three living levels shown on the approved permit measure approximately thirty-feet and including the lower floor in the height measurement would have resulted in a fifty-foot-tall structure, with approximately fifty-feet in height of improved living space, requiring a Height Variance.

Ordinance 352 was in effect March 13, 1973, through July 1, 1981, and limited residential structures on sites having over a ten percent slope to 45 feet in height and three stories. Ordinance 352 included the following definition of story, "The portion of a building included between the surface of any floor and the surface of the next floor above it, or if there be no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a story for the purpose of height measurement if subdivided and used for dwelling purposes."

The level of 80 Crest Road closest to the ground would not have qualified as a basement during the period when the house was built and basement was defined as "an area below the first floor having part but not more than half its height above grade" and the code indicated that only an area meeting this definition would not be counted as a story. Therefore, enclosing the lower area of the house during this time period and subdividing it into improved living space with windows, toilet, sink, wine cellar, flooring, interior stairway from the first floor of the residence to the unpermitted ground floor area, a workshop and electrical improvements would have required a Height Variance, Conditional Use Permit, and a building permit.

Ordinance 486 has been in effect since July 1, 1981, through today and limits maximum heights of residential structures on downward sloping sites to 35 feet and three stories. Whether the section limits houses on downward sloping lots to only 35 feet with no limit on the number of stories has been argued by applicants in the past. In this case, even if no consideration is made of the increase in the number of stories, the height of the enclosed and improved areas of the structure increased from 33 feet to 50 feet and was an improvement that would have required approvals for a Conditional Use Permit, a Height Variance, and a building permit.

Therefore, there is no period in time since 1961 when fifty foot tall residential structure legally could have been built in Fairfax without a Conditional Use Permit, a Height Variance, and a building permit.

Describing the different building levels as they have been approved, subsequently constructed, and variously designated, is somewhat confusing. To assist in describing and comparing the levels as they have been variously referred to, please use the following table:

80 Crest Road Building Level Reference Comparison Table

| 1972 APPROVED ORIGINAL CONSTRUCTION PLANS | 1973 TO 1978 ASSESSOR RECORDS | 2018 APPLICANT'S PLANS | ORIGINAL SQ. FT. | PROPOSED SQ. FT. |
|---|-------------------------------|------------------------|------------------|------------------|
| LOFT | LOFT | LOFT | 212 | NO CHANGE |
| MAIN FLOOR | FIRST FLOOR | THIRD FLOOR | 1,392 | NO CHANGE |
| LOWER FLOOR | BASEMENT | SECOND FLOOR | 1,056 | 1,737 |
| FOUNDATION | NO DESCRIPTION | FIRST FLOOR | 0 | 1,020 |

Ross Valley Fire Department The Ross Valley Fire Department has reviewed the as built plans, finds them incomplete, and has indicated they will need to be revised to show a 20-foot-wide (fire) road within 150 feet of any portion of the ground floor exterior walls, and will have to indicate how to address currently inadequate fire flow pressure which does not meet the minimum required 1,000 gallons per minute.

The structure must be provided with a National Fire Protection Agency 13 or 13 R sprinkler system for both the legalization of the basement floor expansion and the ground floor improvements. Legalization of the ground floor, improvements will require the provision of a second exit with a building code compliant pathway or stairway leading up to Crest Road.

These would be fire department requirements and conditions of approval whether the ground level is restored to unimproved underfloor area or not, being also required for approval of the unpermitted improvements to the bedroom level. The property owners have expressed concern about the cost associated with meeting the requirement for fire protection of the Ross Valley Fire Department. This is beyond the purview of the Town and must be separately resolved with the Fire Department.

Town's Position/Appellant's Position

The Town's goal is to restore the ground floor area to a condition such that future owners will not find it to be living space. This includes removal of the interior stairway from the first floor of the residence to the unpermitted ground floor area, the rear windows, the toilet and sink, the wine room, the workshop and any flooring from the ground area beneath the house not necessary for the maintenance of the foundation. All the unpermitted improvements shall be removed including any electrical improvements other than those necessary to provide visibility to someone inspecting the foundation of the residential structure.

The appellants would like to retain the area as they believe it was originally constructed except, they have indicated they would be willing to remove the toilet and the sink (the plumbing).

The appellants have also indicated that they do not want the only access to the ground floor level to be via the exterior stairway which they find to be unsafe. After inspecting the site the staff believes that a code compliant stairway/access path can be created outside the house to access the foundation area beneath the house.

The appellants provided an engineering evaluation of the underfloor area – attachment F- in which their engineer's assessment is that a portion of the enclosed underfloor (ground level) area was infilled within the past ten to fifteen years to provide life-safety upgrades and adequate lateral rigidity across the ground floor area of the structure (Attachment F – page 2, third paragraph). The report provides calculations justifying that the added exterior walls add stability for the building.

The Town Engineers have reviewed the approved building permit, the appellant's as built plans and the appellant's engineering analysis. After reviewing the project Engineer's analysis contained in the report dated January 6, 2020, by Kelly Turbin, P.E. the Town Engineers are not in agreement that all of the improvements made to the lower floor are necessary for the increased stability of the house. The Town Engineers have indicated that the interior stairway from the first floor of the residence to the unpermitted ground floor area, wine cellar, toilet room, sink, new rear windows, and much of the flooring and the electrical improvements are not necessary for the stability of the permitted three floors of the structure above the foundation. Additionally, if the improvements to the ground floor were designed to provide stability to the building, the improvements would have had to have been designed based on engineering calculations and include engineered plans prior to the Town issuing a building permit for the improvements to be legally constructed. The appellants have been unable to provide the required drawings and engineering calculations that would have had to have been prepared in order for a building permit to have been issued for the underfloor enclosure construction. The Town Engineers also believe that if the intent of the construction was strictly seismic strengthening, that would be achieved by adding full-height sheathed cripple walls, properly connected to the floor diaphragm above and the foundation below.

ATTACHMENTS

- A1. Resolution of the Town Council upholding the Planning Commission decision
- A2. Alternative Resolution of the Town Council upholding the Planning Commission decision, but delaying enforcement until such time as the property transfers ownership, by sale, inheritance, or otherwise
- B. Town approved 1972 construction plans
- C. Marin County Tax record and Town Building Permit records including final Inspection card and file jacket indicating 9/13/73 plan microfiche date
- D. Appellant's As Built Plans
- E. Planning Commission Resolution No. 2019-13
- F. Appellant's appeal and supplemental information
- G. Engineering Evaluation by Kelly P. Turbin, P.E. dated 1/6/20

RESOLUTION NO. 24-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN FAIRFAX
DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION ACTION
APPROVING A CONDITIONAL USE PERMIT, APPLICATION 19-10, LEGALIZING
THE EXPANSION OF THE BEDROOM LEVEL OF THE RESIDENCE AND DENYING
THE REQUESTED HEIGHT VARIANCE FOR THE UNPERMITTED GROUND FLOOR
LEVEL FOR THE RESIDENTIAL PROPERTY AT 80 CREST ROAD**

WHEREAS, on February 25, 2019 the Town of Fairfax received an application from Verle and Marene Sorgen for a Conditional Use Permit and a Height Variance to legalize the following unpermitted construction at 80 Crest Road; 681 square feet of unpermitted, partitioned living space (509 square feet conditioned living space including a sitting room, hallway, photo lab, closet, 172 square feet unconditioned office/storage, and closet) and a 1,020 square-foot, 4th (ground floor) level underneath the existing permitted three-story structure that includes a conditioned wine cellar, a room with a toilet, another room with a sink and a workshop with minor electrical improvements throughout the entirety of the space, two windows, and an exit door and stairway on the north side; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019, to consider approval of the owner's requested Conditional Use Permit and Height Variance and at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, at the conclusion of the October 17, 2019, Planning Commission meeting, that body did approve, by way of its adoption of Resolution 2019-13, the plans dated 5/5/18, prepared by Henry Taylor, Architect, pages 1 through 7, which the Commission conditioned to be modified to eliminate the following:

The 1,020 square feet of improvements in the ground floor 4th level, including all the stairways, flooring, any interior walls not necessary for the structural integrity of the building as recommended by the project structural engineer and verified by the Town Engineer after a peer review, the toilet, sink and wine storage room and any electrical not required to provide minimal visibility when accessing the underfloor area, as well as the 2 windows in the west side of the building.

WHEREAS, the Town Council makes the following findings provided the ground floor 4th story of the structure is abated:

The project conforms to the following 2010-2030 Town of Fairfax General Plan Policies:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character, size, and mass.

Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity.

1. Legalization of the 509 square-foot conditioned living and 172 square feet of

unconditioned space including the sitting room, hallway, photo lab and closet, and office/storage closet, are similar in size, mass, design, and location on the site to other three story residential structures in the Crest Road neighborhood. Therefore, the approval of the use permit regarding these issues shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. However, granting approval of the four story, fifty-foot-tall structure, in this neighborhood of three-story structures, would result in a structure out of character with the surrounding neighborhood.

2. The modified project, as described above, will not exceed the Floor Area Ratio or Lot Coverage limitations, will comply with the RS-6 Zone District setback requirements and, with the elimination of the 4th, ground level story, it will comply with the height regulations reducing the height of the improved area of the structure from fifty to thirty-three feet in height. Therefore, the development and use of the property as approved shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the Conditional Use permit.
3. Approval of the Conditional Use permit, with the plans modified to eliminate the 4th, ground level of the house structure, is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the Conditional Use permit, with plans modified as described above, will maintain the remainder of the site in its natural state requiring no significant excavation and/or removal of trees or vegetation and will provide the owners with additional living space and storage that is not available on the remainder of the site with its 48% slope. Approval of the Conditional Use permit, as modified in accordance with the above, will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety, or welfare of the community.

WHEREAS, at the March 6, 2024, public hearing, the Town Council determines that the findings required by § 17.028.070 of the Town Code to approve a Height Variance for a 50-foot-tall residential structure at this location cannot be made and make the following findings to deny the Height Variance:

1. The Town has not granted any height variances for a fifty-foot-tall residence that staff can find any record of since its incorporation in 1931 nor have the codes ever allowed for the creation of a fifty-foot tall and four-story residential structure. Therefore, approval of the project with a 4th level, creating fifty-feet of improved residence area would constitute a grant of special privilege; and
2. There are no special circumstances applicable to this 33,632 square-foot site that require additional square footage to be designed only as a 4th level resulting in a 50-foot-tall structure. There are opportunities, and it is physically possible, to design additional space as extensions to the other floors of the existing structure. Therefore, denial of the requested height variance for a fourth level will not deprive the applicant of privileges enjoyed by other property owners in the vicinity and in the RS-6 Zone District or of the ability to enlarge their residence in compliance with the Zoning Regulations.

3. The strict application of the thirty-five-foot height limit, would not result in excessive or unreasonable hardship for the owners as the removal of the unpermitted work and compliance with other agency's conditions is physically possible and would bring the property into compliance with the height regulations.
4. The denial of the height variance to allow a 4-story, fifty-foot tall residence will protect the public welfare, maintain the site in a compatible manner to the hillside development on Crest Road and will protect the property values of other property in the vicinity where the 3-story height limit is being adhered to and in which the property is situated.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Town Council of the Town of Fairfax:

Section 1. The recitals set forth above are incorporated herein.

Section 2. Based on the foregoing, the Town Council of the Town of Fairfax does deny the requested appeal and upholds the Planning Commission approval of the Conditional Use Permit and denial of the Height Variance as set forth in Attachment A, Planning Commission Resolution 2019-13.

The foregoing resolution was adopted at a regular meeting of the Town Council held in said Town, on the 6th day of March 2024, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Mayor Barbara Coler

Attest:

Christine Foster, Deputy Town Clerk

RESOLUTION NO. 24-__

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN FAIRFAX
DENYING THE APPEAL AND UPHOLDING THE PLANNING COMMISSION ACTION
APPROVING A CONDITIONAL USE PERMIT, APPLICATION 19-10, LEGALIZING
THE EXPANSION OF THE BEDROOM LEVEL OF THE RESIDENCE AND DENYING
THE REQUESTED HEIGHT VARIANCE FOR THE UNPERMITTED GROUND FLOOR
LEVEL FOR THE RESIDENTIAL PROPERTY AT 80 CREST ROAD BUT DELAYING
ENFORCEMENT, DUE TO HARDSHIP, UNTIL THE PROPERTY TRANSFERS
OWNERSHIP**

WHEREAS, on February 25, 2019 the Town of Fairfax received an application from Verle and Marene Sorgen for a Conditional Use Permit and a Height Variance to legalize the following unpermitted construction at 80 Crest Road; 681 square feet of unpermitted, partitioned living space (509 square feet conditioned living space including a sitting room, hallway, photo lab, closet, 172 square feet unconditioned office/storage, and closet) and a 1,020 square-foot, 4th (ground floor) level underneath the existing permitted three-story structure that includes a conditioned wine cellar, a room with a toilet, another room with a sink and a workshop with minor electrical improvements throughout the entirety of the space, two windows, and an exit door and stairway on the north side; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019, to consider approval of the owner's requested Conditional Use Permit and Height Variance and at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, at the conclusion of the October 17, 2019, Planning Commission meeting, that body did approve, by way of its adoption of Resolution 2019-13, the plans dated 5/5/18, prepared by Henry Taylor, Architect, pages 1 through 7, which the Commission conditioned to be modified to eliminate the following:

The 1,020 square feet of improvements in the ground floor 4th level, including all the stairways, flooring, any interior walls not necessary for the structural integrity of the building as recommended by the project structural engineer and verified by the Town Engineer after a peer review, the toilet, sink and wine storage room and any electrical not required to provide minimal visibility when accessing the underfloor area, as well as the 2 windows in the west side of the building.

WHEREAS, the Town Council makes the following findings provided the ground floor 4th story of the structure is abated:

The project conforms to the following 2010-2030 Town of Fairfax General Plan Policies:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance

the existing character of the Town's neighborhoods in diversity, architectural character, size, and mass.

Policy LU-7.2.1: New and renewed development shall be compatible with the general character and scale of structures in the vicinity.

1. Legalization of the 509 square-foot conditioned living and 172 square feet of unconditioned space including the sitting room, hallway, photo lab and closet, and office/storage closet, are similar in size, mass, design, and location on the site to other three story residential structures in the Crest Road neighborhood. Therefore, the approval of the use permit regarding these issues shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. However, granting approval of the four story, fifty-foot-tall structure, in this neighborhood of three-story structures, would result in a structure with a design out of character with the surrounding neighborhood.
2. The modified project, as described above, will not exceed the Floor Area Ratio or Lot Coverage limitations, will comply with the RS-6 Zone District setback requirements and, with the elimination of the 4th, ground level story, it will comply with the height regulations reducing the height of the improved area of the structure from fifty to thirty-three feet in height. Therefore, the development and use of the property as approved shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the Conditional Use permit.
3. Approval of the Conditional Use permit, with the plans modified to eliminate the 4th, ground level of the house structure, is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the Conditional Use permit, with plans modified as described above, will maintain the remainder of the site in its natural state requiring no significant excavation and/or removal of trees or vegetation and will provide the owners with additional living space and storage that is not available on the remainder of the site with its 48% slope. Approval of the Conditional Use permit, as modified in accordance with the above, will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety, or welfare of the community.

WHEREAS, at the March 6, 2024, public hearing, the Town Council determines that the findings required by § 17.028.070 of the Town Code to approve a Height Variance for a 50-foot-tall residential structure at this location cannot be made and make the following

findings to deny the Height Variance:

1. The Town has not granted any height variances for a fifty-foot-tall residence that staff can find any record of since its incorporation in 1931 nor have the codes ever allowed for the creation of a fifty-foot tall and four-story residential structure. Therefore, approval of the project with a 4th level, creating fifty-feet of improved residence area would constitute a grant of special privilege; and
2. There are no special circumstances applicable to this 33,632 square-foot site that require additional square footage to be designed only as a 4th level resulting in a 50-foot-tall structure. There are opportunities, and it is physically possible, to design additional space as extensions to the other floors of the existing structure. Therefore, denial of the requested height variance for a fourth level will not deprive the applicant of privileges enjoyed by other property owners in the vicinity and in the RS-6 Zone District or of the ability to enlarge their residence in compliance with the Zoning Regulations.
3. The strict application of the thirty-five-foot height limit, would not result in excessive or unreasonable hardship for the owners as the removal of the unpermitted work and compliance with other agency's conditions is physically possible and would bring the property into compliance with the height regulations.
4. The denial of the height variance to allow a 4-story, fifty-foot tall residence will protect the public welfare, maintain the site in a compatible manner to the hillside development on Crest Road and will protect the property values of other property in the vicinity where the three story height limit is being adhered to and in which the property is situated.

WHEREAS, As a result of the hardship request made by the appellants relating to the interior stairway access being necessary for them to safely access the wine room and workshop areas, the Town Council has agreed to allow the improvements frequently used by the applicants to remain within the subfloor foundation area until such time as the property transfers ownership. When the property transfers ownership, the wine cellar, workshop, flooring unnecessary to maintain the building foundation, and interior stairway between the subfloor foundation area and the bedroom level of the structure shall be removed. The Town shall place a Notice of Violation (NOV) on title to the property, recorded with the Marin County Recorder's Office, clearly stating that the lowest ground floor contains unpermitted improvements which include but are not limited to, the interior stairway from the first floor of the residence to the unpermitted ground floor area, the wine room, the toilet and sink, two rear windows and any interior walls not required for structural stability of the permitted three floors of the house above, and any flooring not necessary for the maintenance of the house foundation; and

WHEREAS, at such time as the property changes ownership, the new owner shall request a building permit for the approved additions on the bedroom level of the house, those exterior and/or interior improvements necessary to retain the existing stability of the structure and any Fire District required improvements. At the same time, the new owner shall request a demolition permit for the ground level improvements, including the interior stairway from the first floor area to the ground level.

NOW, THEREFORE, BE IT HEREBY FOUND AND RESOLVED by the Town Council of the Town of Fairfax:

Section 1. The recitals set forth above are incorporated herein.

Section 2. Based on the foregoing, the Town Council of the Town of Fairfax does deny the requested appeal and upholds the Planning Commission approval of the Conditional Use Permit and denial of the Height Variance as set forth in Attachment A, Planning Commission Resolution 2019-13, but with the recordation of the Notice of Violation and delayed enforcement provisions outlined above.

The foregoing resolution was adopted at a regular meeting of the Town Council held in said Town, on the 6th day of March 2024, by the following vote:

AYES:

NOES:

ABSENT:

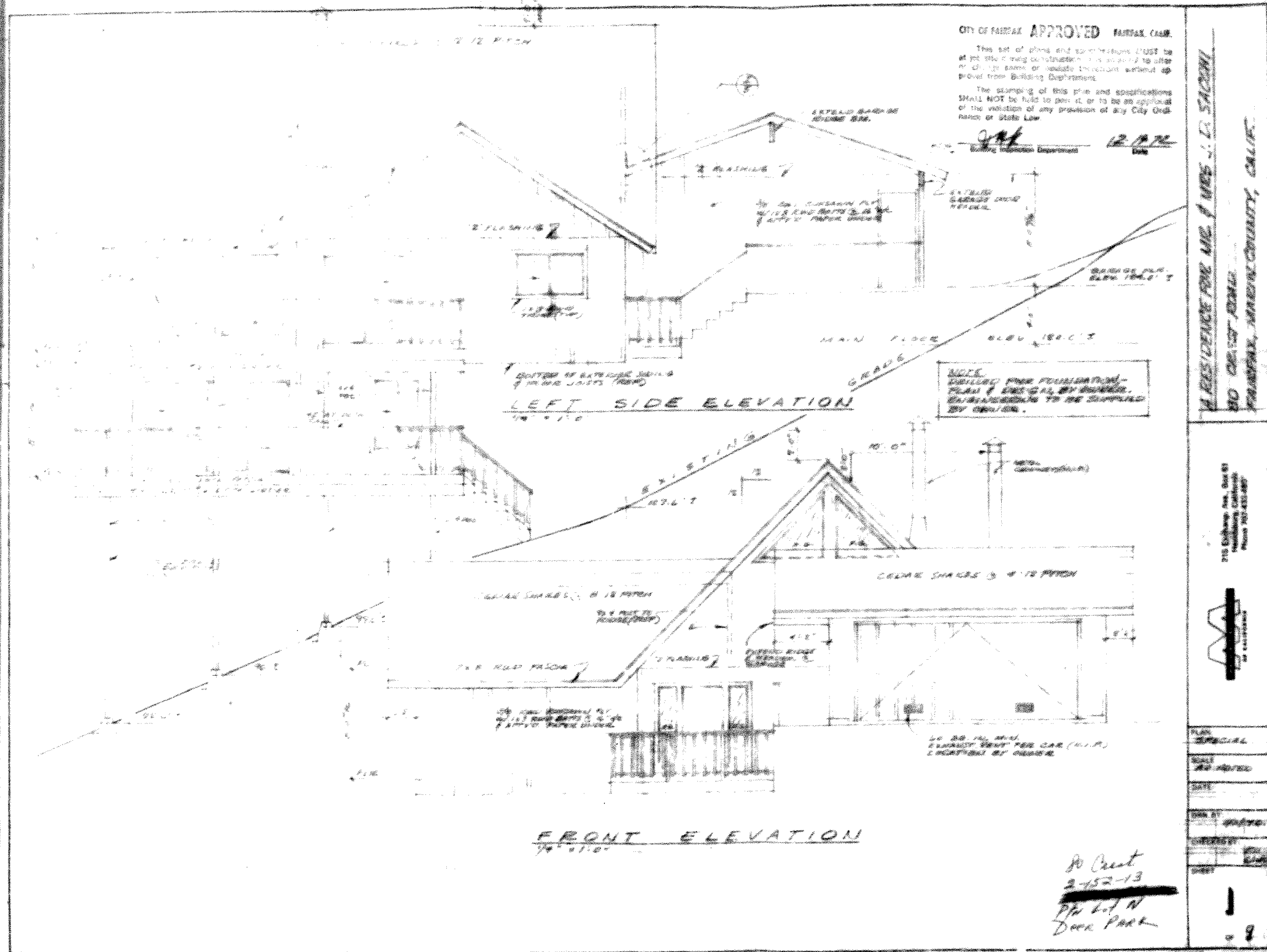
ABSTAIN:

Barbara Coler, Mayor

Attest:

Christine Foster, Deputy Town Clerk

NO GROUND FLOOR



CITY OF FAIRFAX APPROVED FAIRFAX, CALIF.
 This set of plans and specifications must be at the time construction is started to allow for change orders or update execution without approval from Building Department.
 The stamping of this plan and specifications shall NOT be held to pay it, or to be an approval of the violation of any provision of any City Ordinance or State Law.

JAL
 Building Department 12/22/72

NOTE: SKILLED PAIR FOUNDATION PLAN & SPECIAL BY ENGINEER. RESPONSIBILITY TO BE SUPPLIED BY OWNER.

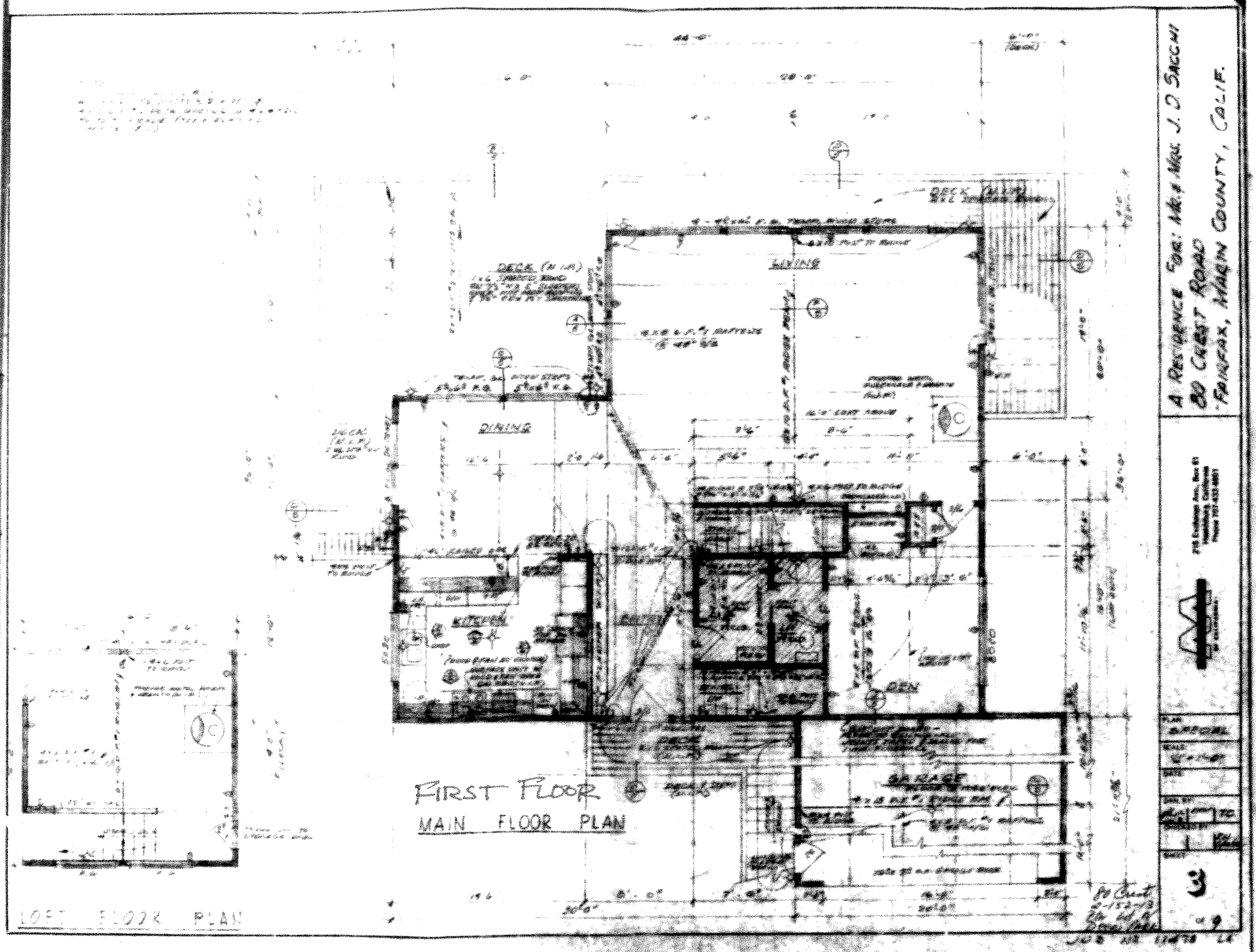
11 RESILIENCE FOR MR. & MRS. J. C. SACCHI
 80 CHERRY AVENUE
 FAIRFAX, MARSH COUNTY, CALIF.

THE SACCHI FIRM, INC. 611
 BUILDING DEPARTMENT
 FAIRFAX, CALIF. 95940

SPECIAL
 NOT APPROVED
 DATE: 12/22/72
 DRAWN BY: JAL
 CHECKED BY: JAL
 SCALE: 1/8" = 1'-0"

PO Crest
 2-152-13
 1/4" Lot N
 Deer Park

APPROVED PLANS
 1972



A RESIDENCE FOR: MR. & MRS. J. D. SACCHI
 80 CREST ROAD
 FAIRFAX, MARIN COUNTY, CALIF.

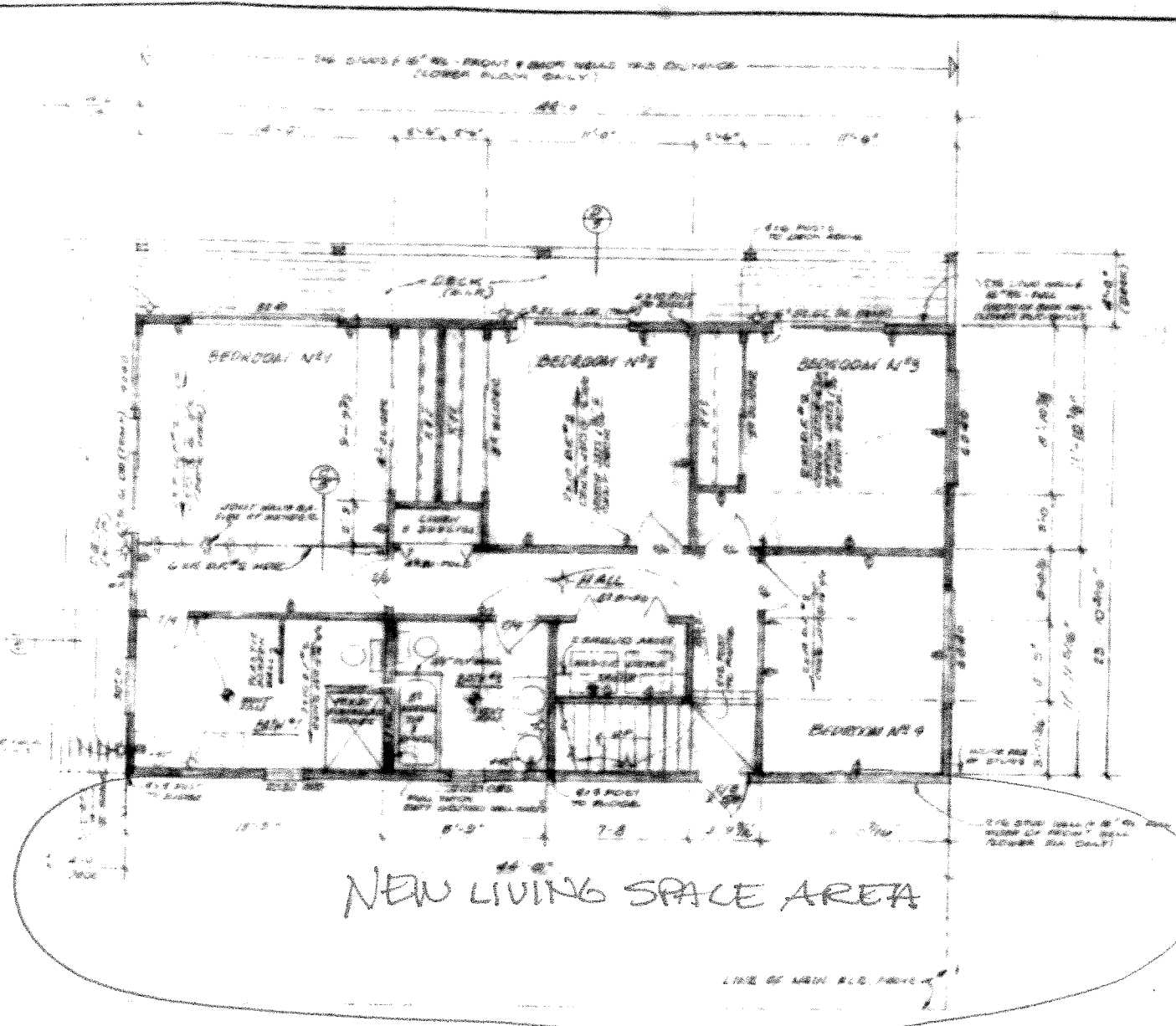
1/2" Scale
 1/4" = 1'-0"



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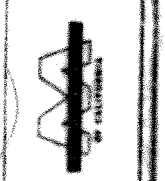
APPROVED PLANS
 1972



BASEMENT
 LOWER FLOOR PLAN
 SCALE: 1/4" = 1'-0"

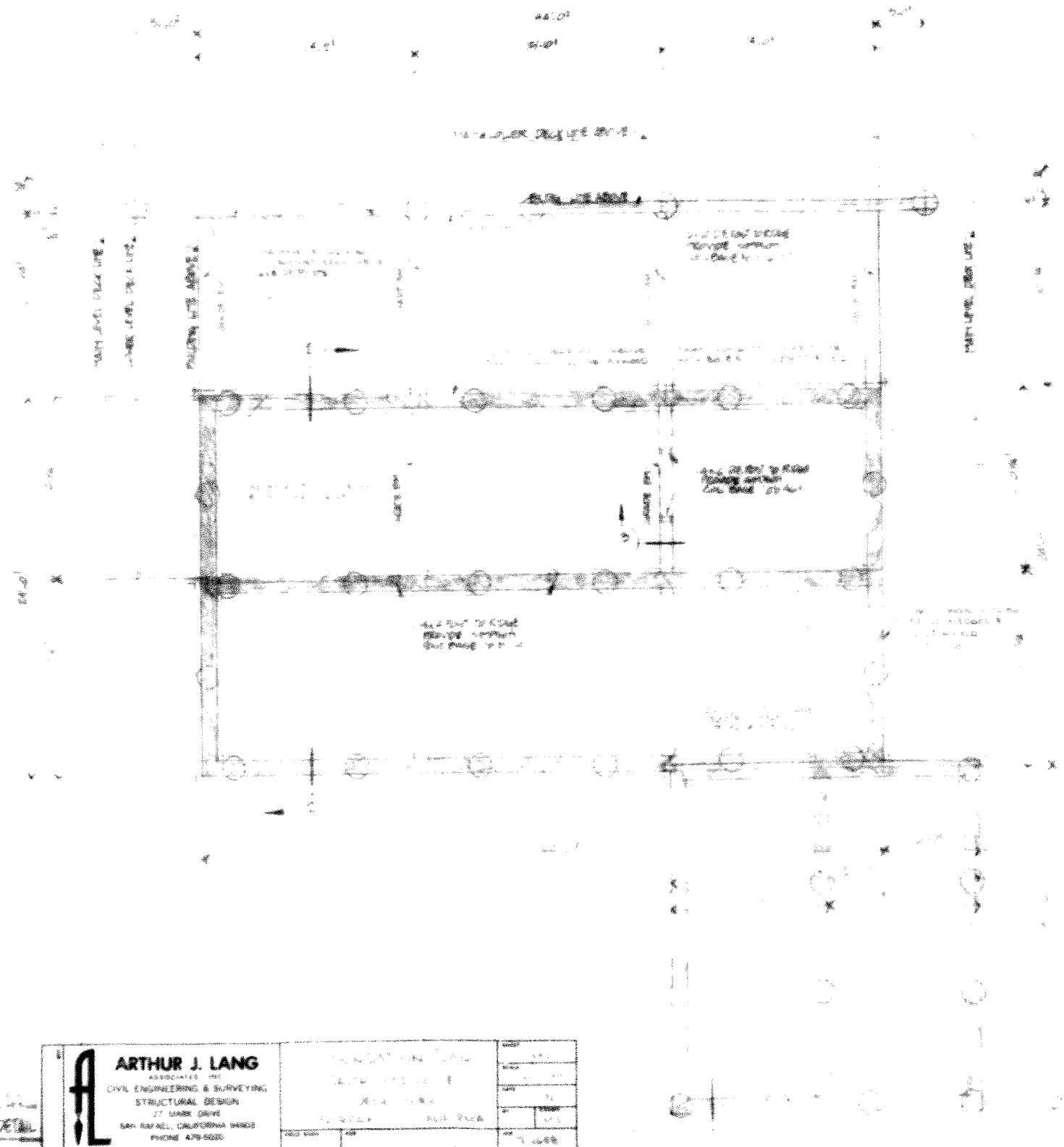
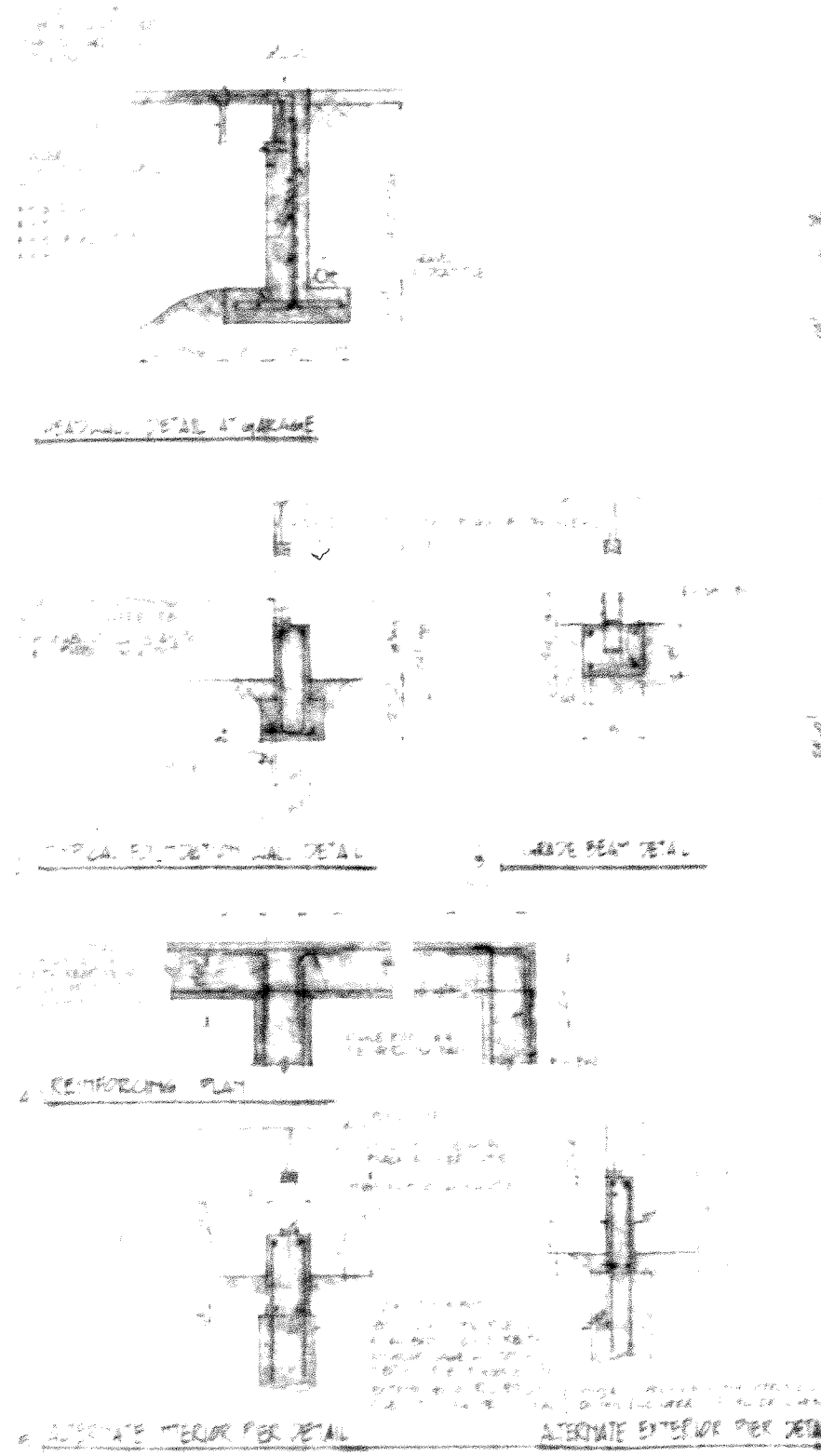
A RESIDENCE FOR: M. & MRS. J. D. SACCHI
 80 CREST ROAD
 FAIRFAX, MARIN COUNTY, CALIF.

THE ARCHITECT: J. D. SACCHI
 1115 BAYVIEW AVENUE
 SAN FRANCISCO, CALIF. 94134
 PHONE 392-4331



| | |
|------------|----------|
| PLAN | SPECIAL |
| SCALE | AS NOTED |
| DATE | |
| DRAWN BY | JDS |
| CHECKED BY | JDS |
| DATE | |

APPROVED PLANS
 1972



| | | | |
|--|--|---|---------------------|
| | ARTHUR J. LANG ASSOCIATES, INC. CIVIL ENGINEERING & SURVEYING STRUCTURAL DESIGN 77 MARK DRIVE SAN RAFAEL, CALIFORNIA 94903 PHONE 479-5000 | FOUNDATION PLAN DATE: 10/1/72 DRAWN BY: J. LANG CHECKED BY: J. LANG SCALE: AS SHOWN | SHEET NO. 1 OF 1 |
| | PROJECT NO. 10000 CLIENT: [illegible] | DATE: 10/1/72 DRAWN BY: J. LANG CHECKED BY: J. LANG SCALE: AS SHOWN | SHEET NO. 1 OF 1 |

GROUND FLOOR

APPROVED PLANS
1972

Sacchi, Jerry

RESIDENTIAL BUILDING RECORD

ADDRESS 80 Crest Rd., F

PARCEL 2-152-13

SHEET OF SHEETS

DESCRIPTION OF BUILDING HHE - DATE (11) QUAN QUAL COND

| CLASS & SHAPE | CONSTRUCTION | STRUCTURAL | | EXTERIOR | | ROOF | | LIGHTING | | AIR CONDITION | | ROOM AND FINISH DETAIL | | | | | | | | | | |
|---------------|--------------|-----------------|--------------|-----------------|--------------|---------|----------------|---------------|-----------|-----------------|-------|------------------------|--------|-----------|-----------------|-----|------|--------------|-----|----------|--------|-------------|
| | | Light | Sub-Standard | Frame | Box | Stucco | Flat | Pitch | Wiring | Heat | Cool. | ROOMS | FLOORS | FLR. FIN. | INTERIOR FINISH | | | | | | | |
| ARCHITECTURE | Standard | Sheath. | B.W. | Shing | Gable | H | K&T | B.X. | Forced | Clean | All | B | 1 | 2 | Mat. | Gr. | Trim | Walls | Gr. | Ceilings | Gr. | |
| 1 1/2 Stories | Above-Stand. | Conc. Blk. | | B & B | T & G | Shed | | FIXTURES | Wall Unit | | | | | | | | | Hardwood Ply | | | | |
| TYPE | Special | Brick | | Shingle | Cut-Up | Dorm | | Few | Cheap | Floor | | Ent. Hall | 1 | | Car Ti | Gr | | Hard Ply | | | | Cath-Ex Bay |
| USE | DESIGN | FOUNDATION | | | | | | | | | | | | | | | | | | | | |
| Single | Concrete | Floor Joist | | Stone | Gutters | D.S. | | Rec. | 220 | | | Dining | 1 | | Vin Ti | Gr | | | | | | |
| Double | Reinforced | 1st: 2"x10" 16" | | Gd. Av. Fr. | 18" overhang | | | | | Elect. | w. | Bed | 3 | | | | | | | | | |
| Duplex | Brick | 2nd: 2"x8" 16" | | WINDOWS | | | | SPC. BLT. INS | | Thermostat | | Bed | 1 | | Unf | | | | | | | |
| Apartment | Wood | Sub-Floor Ply | | Csmf. | D.H. | Shingle | | B.I. Stove | B | | | Lott | 2 | | | | | | | | | Cath-Ex Bay |
| Flat-Court | Piers | Conc. Floor | | Metal | Scrn. | Shake M | | B.I. Oven | B | M-BTU | | | | | | | | | | | | |
| Motel | Slope | | | Crystal | S.F. | Tile | Ti Trim | B.I. Dishwr. | | F.P. Free stand | | Kitchen | 1 | | Vin Ti | Gr | | | | | | |
| Units | Light | Heavy | | Insulated Walls | Sid. Gl. Dr. | S.F. | Compo. Shingle | Garb. Disp. | | B.B.Q. | | 1/2' Base cab. | | | Metal | | O.P. | Hard | Gr. | | W-Htr. | Sink |

| CONSTRUCTION RECORD | | EFFEC. APPR. | | NORMAL % GOOD | | RATING (E, G, A, F, P) | | MATH | | FINISH | | FIXTURES | | SHOWER | | | | | | | | | | | | |
|---------------------|----------|--------------|-------|---------------|------|------------------------|-------------|-------|-----|--------|-------------|-------------|-----------|--------------|-----------|------------|---------|--------|--------|-------------|------|-------|--------------|--------|---|---|
| Permit No. | For | Amount | Date | YEAR | YEAR | Age | Remain Life | Table | % | Cond | Arch. Attr. | Func. Plan. | Con. form | Storage Cupb | Sp. Close | Work. mshp | FL. No. | Floors | Walls | Wc. La. Tub | Type | Grade | St. O. G. L. | Finish | | |
| 2588 | Dwelling | 64,000 | 12-72 | 1973 | 1977 | 0 | 60 | 60-2 | 100 | G | G | G | (F) | E | G | A | Ti | Car Ti | Sh Prk | Paint | 1 | 1 | 1 | 1 | 1 | 1 |
| 268 | Pool | 8700 | 6-74 | | | | | | | | | | | | | | | | | | | | | | | |
| 326 | Driveway | 4,000 | 12-74 | | | | | | | | | | | | | | | | | | | | | | | |

SPECIAL FEATURES

Not Started 32-73 Phillips 15678 Comp 100% 3-4-74

COMPUTATION

| Appraiser & Date | Area | unit cost | Cost | unit cost | Cost | unit cost | Cost | unit cost | Cost | unit cost | Cost | unit cost | Cost | unit cost | Cost | unit cost | Cost |
|------------------|------|-----------|---------------|-----------|-------|-----------|------|-----------|------|-----------|------|-----------|------|-----------|------|-----------|------|
| Berry 3-18-74 | 1392 | 19.88 | 27673 | | | | | | | | | | | | | | |
| Fin Bsmt (4) | 1056 | 19.88 | 20993 | | | | | | | | | | | | | | |
| Loft (4) * | 240 | 14.90 | 3576 | | | | | | | | | | | | | | |
| AC | 2448 | .80 | 1958 | | | | | | | | | | | | | | |
| FP | | | 450 | | | | | | | | | | | | | | |
| Att Gar DB | 440 | 8.29 | 3648 | | | | | | | | | | | | | | |
| WUP & Steps | 988 | 2.50 | 2470 | | | | | | | | | | | | | | |
| Ramp | 336 | 4.00 | 1344 | | | | | | | | | | | | | | |
| Slope Const | | | 2,000 | | | | | | | | | | | | | | |
| 75 Sw. Pool | | | | | 8,000 | | | | | | | | | | | | |
| TOTAL | 173 | | 64,112 + | | | | | | | | | | | | | | |
| NORMAL % GOOD | | | 106 | | | | | | | | | | | | | | |
| R.C.L.N.D. | | | 64,112 + 8000 | | | | | | | | | | | | | | |

ATTACHMENT C
ATTACHMENT C

RESIDENTIAL APPRAISAL RECORD

SHEET _____ OF _____

2-152-13

(A) (C) D

| COST DATA SUMMARY | | | | | | | | | | | CODE 1 | CHANGES | CODE 2 | ACTION | CODE 3 | PARCEL |
|--|------|------|------|------|------|------|------|------|------|------|--------|-------------------------|--------|---------------------------|--------|-------------------------|
| SITUS ADDRESS 80 CREST ROAD CITY FAIRFAX | | | | | | | | | | | 1 | NEIGHBORHOOD 602-01 | | | | |
| SUBDIVISION DEER PARK #3 LOT 5 N BLK. | | | | | | | | | | | 2 | TRACT 0 | 34 | CLASS & SHAPE DR. OR | 67 | COST BASE YEAR 74 |
| BASIC AREA: | | | | | | | | | | | 3 | TAX RATE AREA 3-000 | 35 | DESIGN ATT. (DET) | 68 | BASIC AREA 2688 |
| APPRaiser & DATE | | | | | | | | | | | 4 | USE CODE 11 | 36 | ARCHITECTURE CONV. (MOD.) | 69 | 1ST FL. AREA 1392 |
| ITEM | FAC. | AREA | U.C. | COST | U.C. | COST | U.C. | COST | U.C. | COST | 5 | NO. OF UNITS 1 | 37 | PATTERN | 70 | 2ND FL. AREA 240 |
| | | | | | | | | | | | 6 | WIDTH (EFF.) 123 | 38 | CONST. YEAR 72 | 71 | 2ND FL. FACTOR 75 % |
| | | | | | | | | | | | 7 | DEPTH (EFF.) 203 | 39 | EFF. YEAR 73 | 72 | 3RD FL. AREA 0 |
| | | | | | | | | | | | 8 | SQ. FT. ACTUAL 24969 | 40 | DEP. TABLE 60-2 | 73 | 3RD FL. FACTOR 0 % |
| | | | | | | | | | | | 9 | SQ. FT. USABLE 24500 | 41 | LIVING ROOM 1 | 74 | ATTIC AREA 0 |
| | | | | | | | | | | | 10 | CUL-DE-SAC (N) Y | 42 | DINING ROOM 1 | 75 | ATTIC FACTOR 0 % |
| | | | | | | | | | | | 11 | CORNER (N) Y | 43 | DINING AREA 0 | 76 | FIN. BSMT. AREA 1056 |
| | | | | | | | | | | | 12 | STREET COND. POOR (N) Y | 44 | FAMILY ROOM 0 | 77 | FIN. BSMT. FACTOR 100 % |
| | | | | | | | | | | | 13 | NUISANCE INFL. (N) Y | 45 | KITCHEN 1 | 78 | UNF. BSMT. AREA 0 |
| | | | | | | | | | | | 14 | UTIL. UNDERGRND. (N) Y | 46 | BREAKFAST. AREA 0 | 79 | UNF. BSMT. FACTOR 0 % |
| | | | | | | | | | | | 15 | SEPTIC TANK (N) Y | 47 | DEN/LIBRARY 1 | 80 | ADD. AREA 0 |
| | | | | | | | | | | | 16 | VIEW 1 2 3 4 | 48 | BEDROOMS 4 | 81 | ADD. AREA FACTOR 0 % |
| | | | | | | | | | | | 17 | ZONING USE CODE 11 | 49 | SUPP. ROOMS 2 | 82 | GARAGE AREA 440 |
| | | | | | | | | | | | 18 | WATERFRONT (N) Y | 50 | | 83 | GARAGE FACTOR 40 % |
| | | | | | | | | | | | 19 | LAND PROBLEM (N) Y | 51 | BATHS 2.5 | 84 | REC. POR. AREA 0 |
| | | | | | | | | | | | 20 | EASE, BURDEN (N) Y | 52 | KIT. BLT. INS N (Y) | 85 | REC. POR. COST 0 |
| | | | | | | | | | | | 21 | LDSCP. BELOW AVG. (N) Y | 53 | BATHS MOD. N (Y) | 86 | ACCESS POR. COST 2470 |
| | | | | | | | | | | | 22 | LDSCP. ABOVE AVG. (N) Y | 54 | STOR. SP. ADEQ. N (Y) | 87 | FIREPLACE COST 450 |
| | | | | | | | | | | | 23 | HILLSIDE (N) Y | 55 | CENTRAL HEAT N (Y) | 88 | HEAT/COOL AREA 2688 |
| | | | | | | | | | | | 24 | BENCH (N) Y | 56 | CENTRAL COOL (N) Y | 89 | HEAT/COOL COST 1958 |
| | | | | | | | | | | | 25 | ARCH. ATT. POOR (N) Y | 57 | FUNCT. PLAN POOR (N) Y | 90 | EX. PLUMB. COST 0 |
| | | | | | | | | | | | 26 | ARCH. ATT. EXC. (N) Y | 58 | PARKING ADEQ. N (Y) | 91 | BLT. INS COST 0 |
| | | | | | | | | | | | 27 | UNDERIMP. (N) Y | 59 | DEF. MAINT. (N) Y | 92 | YD. IMPS COST 0 |
| | | | | | | | | | | | 28 | OVERIMP. (N) Y | 60 | | 93 | MISC. STRUC. COST 0 |
| | | | | | | | | | | | 29 | ECONOMIC UNIT (N) Y | 61 | INSP. DATE 4-28-75 | 94 | SP. FEAT. COST 5879 |
| | | | | | | | | | | | 30 | | 62 | EMPLOYEE NO. 31-75 | 95 | MISC. ITEMS COST 1344 |
| TOTAL R.C.N. | | | | | | | | | | | 31 | % OF BASE LOT 130.0 | 63 | USABLE IN REG. N (Y) | 96 | POOL AREA 510 |
| % GOOD | | | | | | | | | | | 32 | APP. DATE 5-02-75 | 64 | | 97 | POOL COST 9200 |
| R.C.L.N.D. | | | | | | | | | | | 33 | EMPLOYEE NO. 31-75 | 65 | | 98 | SLOPE COST 2000 |
| | | | | | | | | | | | | | 66 | | 99 | PLANNING FEES 0 |

TOTAL PROPERTY SUMMARY

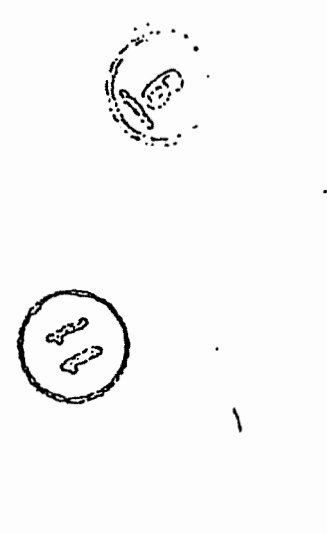
| ASSESSMENT YEAR | 1976 | 1976 |
|-------------------|--------------|---------|
| APPRaiser | Berry | Interim |
| MO./DAY/YEAR | 8-4-75 | 2-76 |
| IMP. R.C.N. | | |
| IMP. R.C.L.N.D. | 74 Imp 87000 | |
| LAND VALUE | +357 76500 | TP-5 |
| SUMMATION | F Pool 8000 | 2 HCH |
| TOTAL PROP. VALUE | 104000 | 98500 |
| LAND VALUE | 19500 | 19500 |
| IMP. VALUE | 84500 | 79000 |
| INPUT - D/P | 22-76 | 22-76 |

| 1978 | 1975 |
|-----------|-----------|
| GB | GB |
| 6-78 | 7-20-78 |
| 10/77 Q/c | Corrected |
| DEED | |
| 129500 | 78000 |
| 29000 | 13000 |
| 100500 | 65000 |
| 2-78 | 2-75 |

LAND ADJUSTMENT SUMMARY

| | |
|------------------------|---------|
| BASE LOT VALUE = | 10,000 |
| ADJ. LAND VALUE = | 13,000 |
| ADJ. VAL. + BASE VAL = | 130.0 % |
| FACTORS CONSIDERED: | |
| SIZE | SHAPE |
| USE AREA | TOPOG. |
| PRIVACY | |
| SETTING | |
| LANDSCAPE | |
| TREES | |
| UTILITIES | |
| ACCESS | |
| VIEW | |
| WATERFRNT. | |
| DRAINAGE | |

E.D.P. STAMP



PLAT

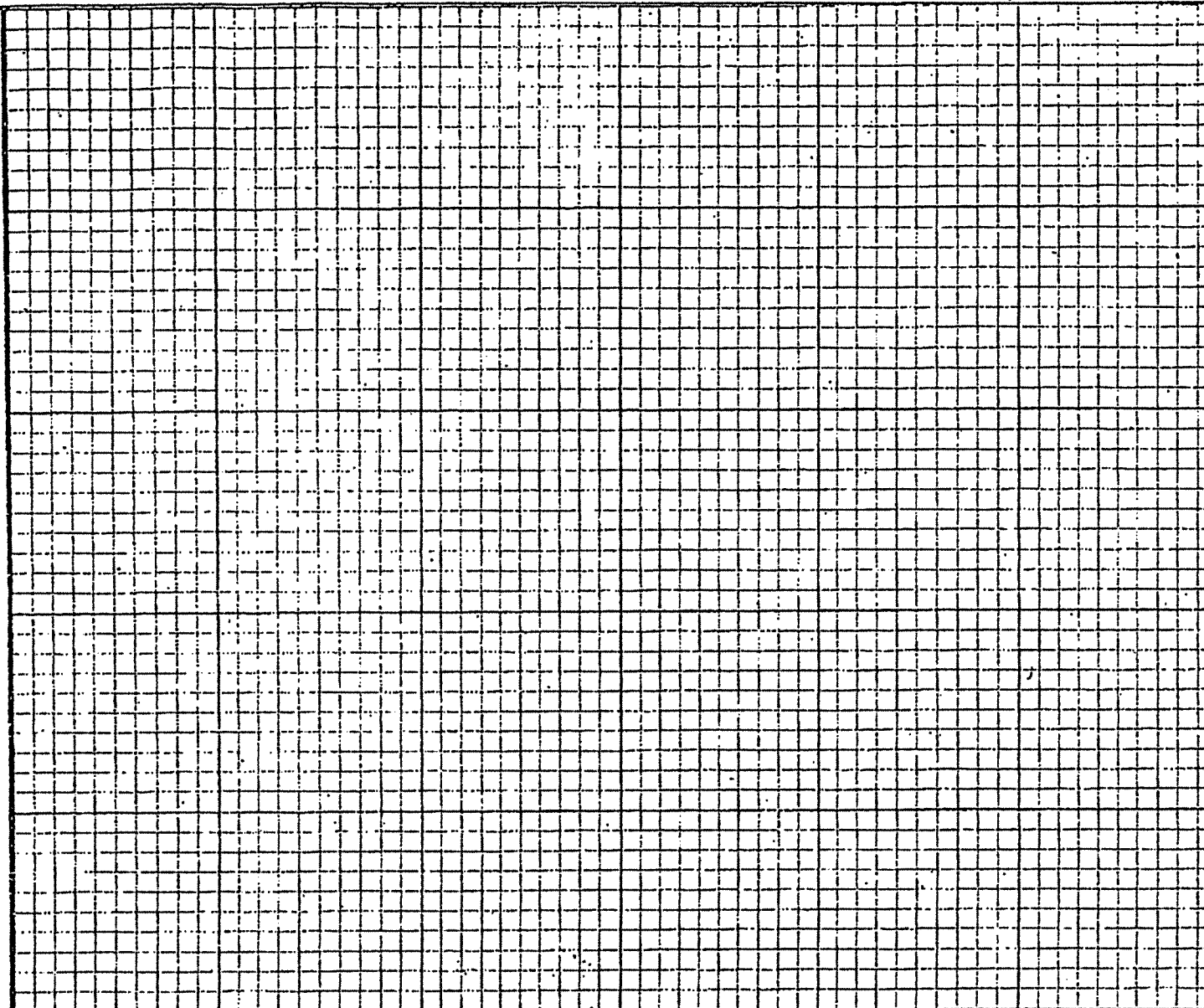
SCALE: 1" = 20'

TRANSACTION RECORD

| DATE | STAMPS | SALE PRICE | GRANTEE |
|-------|--------|------------|--|
| 10-70 | 9.90 | | COOK, ALLEN W. 2412-208 |
| 4-72 | 8.25 | 7500 | SACCHI, FERRY DUANE + MARBENE 2556-428 |
| 1978 | | | Sorgen, Verle W. & L. Marene 3384-533 |

002-152-13 \$ NA
 JAN 15 '88 \$ 88-02561-WOP(2)
 SORGEN, VERLE W. & L. MARENE S. TRS.

002-152-13 \$ NA
 JAN 5 '89 \$ 89-00671-WOP(2)
 SORGEN, VERLE & MARENE S. TRS.



CONSTRUCTION RECORD

| PERMIT NO. | FOR | AMOUNT | DATE | APP. YR |
|------------|-----------------------|--------|-------|---------|
| 2588 | RES | | | 72 |
| 268 | POOL | 8700 | 6-74 | 11 |
| 336 | RET. WALL | 4000 | 12-74 | 11 |
| 9285 | REPLACE DRIVEWAY RAMP | 3000 | 9-81 | CA |
| P95207 | REPAIR DRIVEWAY RAMP | 7000 | 12-95 | CA |
| 96596118 | REPAIR | 24744 | 5-96 | CA |

ROOM & FINISH DETAIL

| ROOMS | ROOM | | | FLOOR | WALL | CLIL. |
|-------------|------|---|---|---------|------|-------|
| | B | 1 | 2 | | | |
| TYPICAL | | | | WVC | S.A. | SR. |
| ENTRY AREA | | 1 | | Car Ti | | |
| LIVING | | 1 | | | | |
| DINING | | 1 | | Vin Ti. | | |
| DINING AREA | | | | | | |
| FAMILY | | | | | | |
| KITCHEN | | 1 | | VIN TI. | | |
| BREAK. AREA | | | | | | |
| DEN/LIBRARY | | 1 | | | | |
| BED | | 3 | | | | |
| BED | | 1 | | UNF | | |
| SUPP. ROOM | | | 2 | | | |
| BATH | | 2 | 1 | | | |

BATH FIXTURES

| NO. BATHS | W. C. | LAV. | TUB | S.O.T. | ST. SH. | TYPE | GR. |
|-----------|-------|------|-----|--------|---------|------|-----|
| | 1 | | | | | m | 5 |
| 1 | 1 | 2 | | | 1 | | |
| 1 | 1 | 2 | 1 | 1 | | | |

COMPUTATIONS:

REMARKS: ITEM 95: RAMP
 P95207. REPAIR & REPLACEMENT OF DRIVEWAY RAMP. NO VALUE ADDED 6-10-96 S.LAC
 2) P961182 Owner request, repl. chimney, gutters and parts of W.D. Doc 6-30-96. No added value, CA permit. 4/18/96

MISCELLANEOUS STRUCTURES

| STRUCTURE | CLASS | SIZE | AREA | FNDN | EXT. | INT. | ROOF | FLR. | COST |
|-----------|-------|-------|------|------|------|------|------|------|------|
| ATT GAR. | D8 | 20x20 | 440 | FC | PLY | UNF | SHK. | e. | 3648 |

| FOUNDATION | | EXTERIOR | | ROOF | | BUILT-INS | |
|-----------------|---|----------------|----------|----------------|---|-------------|---|
| REINF. CONC. | X | BRICK | | COMPO. | | RANGE/HOOD | X |
| CONC. SLAB | | STUCCO | | TAR & GRAV. | | OVEN | X |
| PIER | | SIDING | | SHINGLE/SHAKE | X | GARB. DISP. | X |
| SONOTUBE | | SHINGLE/SHAKE | | TILE | | | |
| | | PLY | X | | | | |
| JOISTS | | WINDOWS | | SPEC. FEATURES | | A. C. | |
| 2 "x 10" - 16 " | | D.H. | WOOD | BREAK. BAR | | C.F.A.H. | X |
| STRUC. - WALLS | | CSMT. | X METAL | WET BAR | | OUTLETS | |
| WOOD FRAME | X | PLATE | X CRYST. | INTERCOM. | | RADIATOR | |
| STUDS | | SL. GLASS DOOR | | WARDROBES | | RADIANT | |
| 2 "x 4" - 16 " | | | | REFRIG. | | FLOOR | |
| BRICK | | LIGHTING | | DISHWASHER | X | WALL | |
| CONC. BLK. | | REC. | 220 | | | CENT. COOL | |

MISCELLANEOUS STRUCTURES

| Structure | Found | Cons. | Ext. | Roof | Floor | Int. | Size, etc. |
|------------|--------|-------|------|-------------|-------|------|---------------|
| Att Gar DB | R-Conc | Fl | Ply | Gable-Shake | Conc | Vnt | 20 X 22 = 440 |
| S.W. POOL | | CONC | D. | | | | 15 X 32 |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |
| | | | | | | | |

COMPUTATIONS

| Res | Ramp |
|----------------|---------------|
| 44 X 24 = 1056 | 24 X 14 = 336 |
| 28 X 12 = 336 | |
| <u>1392</u> | |

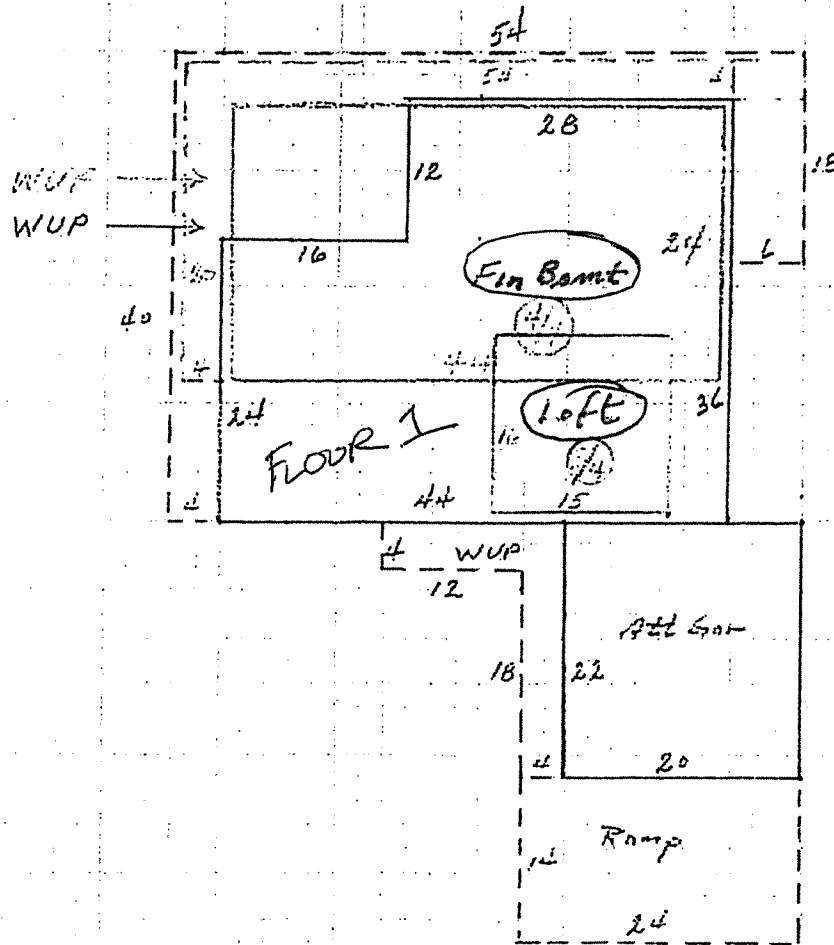
| |
|-----------------|
| Fin Bsm't (1/4) |
| 44 X 24 = 1056 |

| |
|---------------|
| Loft (3/4) |
| 15 X 16 = 240 |

| |
|-------------|
| TBLA = 2688 |
|-------------|

| WUP & Steps |
|---------------|
| 4 X 22 = 88 |
| 12 X 4 = 48 |
| 4 X 24 = 96 |
| 20 X 12 = 240 |
| 54 X 4 = 216 |
| 6 X 14 = 84 |
| 4 X 24 = 96 |
| 54 X 4 = 216 |
| <u>988</u> |

Remarks: ① Permit # 255? (Well - 100% complete). Res is of pre-fab constr. by contractor out of Hantsburg. Construction is "F" due to only one other home in the area approaching DB quality. Extra ceil. ht in class. Used '73 costs w/ no Ent'l. - S.W. Pool 100%. Difficult & expensive S.P. site created near. should be notified in land use survey report. 4/30/77



Front
Crest

REQUEST FOR INSPECTION

Date 9/9/73, 19__

Permit No. _____

Time Received _____ a.m.
_____ p.m.

JOB ADDRESS Saucho

Owner's Name _____ Contractor _____

| | | | | | |
|--|----------------------------------|------------------------------------|------------------------------------|------------------------------------|-------------------------------------|
| BUILDING | PLASTERING | PLUMBING | ELECTRICAL | HTG/COOLING | FIREPLACE |
| Excavation <input type="checkbox"/> | Wire <input type="checkbox"/> | Partial <input type="checkbox"/> | Rough <input type="checkbox"/> | Ducts <input type="checkbox"/> | Foundation <input type="checkbox"/> |
| Forms <input type="checkbox"/> | Lath <input type="checkbox"/> | Rough <input type="checkbox"/> | Final <input type="checkbox"/> | Furnace <input type="checkbox"/> | Damper <input type="checkbox"/> |
| 1, 2, 3, Pour <input type="checkbox"/> | Scratch <input type="checkbox"/> | Final <input type="checkbox"/> | Pole <input type="checkbox"/> | Gas Test <input type="checkbox"/> | Stack <input type="checkbox"/> |
| Framing <input type="checkbox"/> | Brown <input type="checkbox"/> | Meter Set <input type="checkbox"/> | Meter Set <input type="checkbox"/> | Meter Set <input type="checkbox"/> | |
| Wallboard <input type="checkbox"/> | Finish <input type="checkbox"/> | Gas <input type="checkbox"/> | | | |
| Completion <input type="checkbox"/> | | | | | |

Final

ZONING _____

READY FOR INSPECTION

Monday _____ Tuesday _____ Wednesday _____ Thursday _____ Friday _____ At _____ a.m.
p.m.

Inspection Made _____ a.m.
_____ p.m. JMK Inspector

REQUEST FOR INSPECTION

Date 6/28/73, 19__

Permit No. _____

Time Received 8:40 a.m.
_____ p.m.

JOB ADDRESS _____

Owner's Name Saucho Contractor D...

| | | | | | |
|--|----------------------------------|------------------------------------|------------------------------------|------------------------------------|-------------------------------------|
| BUILDING | PLASTERING | PLUMBING | ELECTRICAL | HTG/COOLING | FIREPLACE |
| Excavation <input type="checkbox"/> | Wire <input type="checkbox"/> | Partial <input type="checkbox"/> | Rough <input type="checkbox"/> | Ducts <input type="checkbox"/> | Foundation <input type="checkbox"/> |
| Forms <input type="checkbox"/> | Lath <input type="checkbox"/> | Rough <input type="checkbox"/> | Final <input type="checkbox"/> | Furnace <input type="checkbox"/> | Damper <input type="checkbox"/> |
| 1, 2, 3, Pour <input type="checkbox"/> | Scratch <input type="checkbox"/> | Final <input type="checkbox"/> | Pole <input type="checkbox"/> | Gas Test <input type="checkbox"/> | Stack <input type="checkbox"/> |
| Framing <input type="checkbox"/> | Brown <input type="checkbox"/> | Meter Set <input type="checkbox"/> | Meter Set <input type="checkbox"/> | Meter Set <input type="checkbox"/> | |
| Wallboard <input type="checkbox"/> | Finish <input type="checkbox"/> | Gas <input type="checkbox"/> | | | |
| Completion <input type="checkbox"/> | | | | | |

Close in

ZONING _____

READY FOR INSPECTION

Monday _____ Tuesday _____ Wednesday _____ Thursday _____ Friday _____ At _____ a.m.
p.m.

Inspection Made _____ a.m.
_____ p.m. _____ Inspector

STREET ADD. 80 West Rd.

PARCEL NUMBER
2-132-13

2752-32

PERMIT RECORD

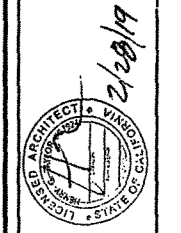
| PT. LOT | BLOCK | SUBDIV. | ZONING DIST. | FIRE ZONE | OCCUP. | | | |
|----------------|------------|------------------|--------------|---|------------|----------|-------------|---|
| | | <u>Deer Park</u> | | <u>III</u> | | | | |
| TYPE OF PERMIT | PERMIT NO. | PLAN NO. | DATE ISSUED | TYPE OF PERMIT | PERMIT NO. | PLAN NO. | DATE ISSUED | REMARKS |
| B | 2588 | | 12/19/72 | Remove chimney at 8' gable & chimney by Planning Commission | | | | Remove chimney at 8' gable & chimney by Planning Commission |
| B | 2588 | | 4/8/73 | Remove chimney at 8' gable & chimney by Planning Commission | | | | Remove chimney at 8' gable & chimney by Planning Commission |
| B | 2588 | | 5/1/73 | Remove chimney at 8' gable & chimney by Planning Commission | | | | Remove chimney at 8' gable & chimney by Planning Commission |
| B | 2588 | | 9/13/73 | Remove chimney at 8' gable & chimney by Planning Commission | | | | Remove chimney at 8' gable & chimney by Planning Commission |
| B | 268 | | | | | | | |
| B | 268 | | | | | | | |
| B | 334 | | 12-11-74 | Restoration Wall | | | | |
| B | 9285 | | 9-3-81 | Remove / Repair Damaged Ramp & Foundation | | | | |
| B | 9207 | | 12/14/95 | Remove / Repair Damaged Ramp & Foundation | | | | |
| B | 9613 | | 5/2/96 | Remove / Repair Damaged Ramp & Foundation | | | | |
| B | 236 | | 7/7/00 | Reok: Reseal plumbing vents | | | | |

PERMIT DESIGNATION: B - BUILDING P - PLUMBING E - ELECTRICAL TV - RADIO-TV ANTENNA U - USE PERMIT V - VARIANCE HM - HOUSE MOVING EP - ENCROACHMENT

| REVISIONS | BY |
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HENRY TAYLOR
 ARCHITECTS
 88 CREST ROAD
 FAIRFAX CALIFORNIA
 94930

TEL 415-484-4851
 FAX 415-484-4858

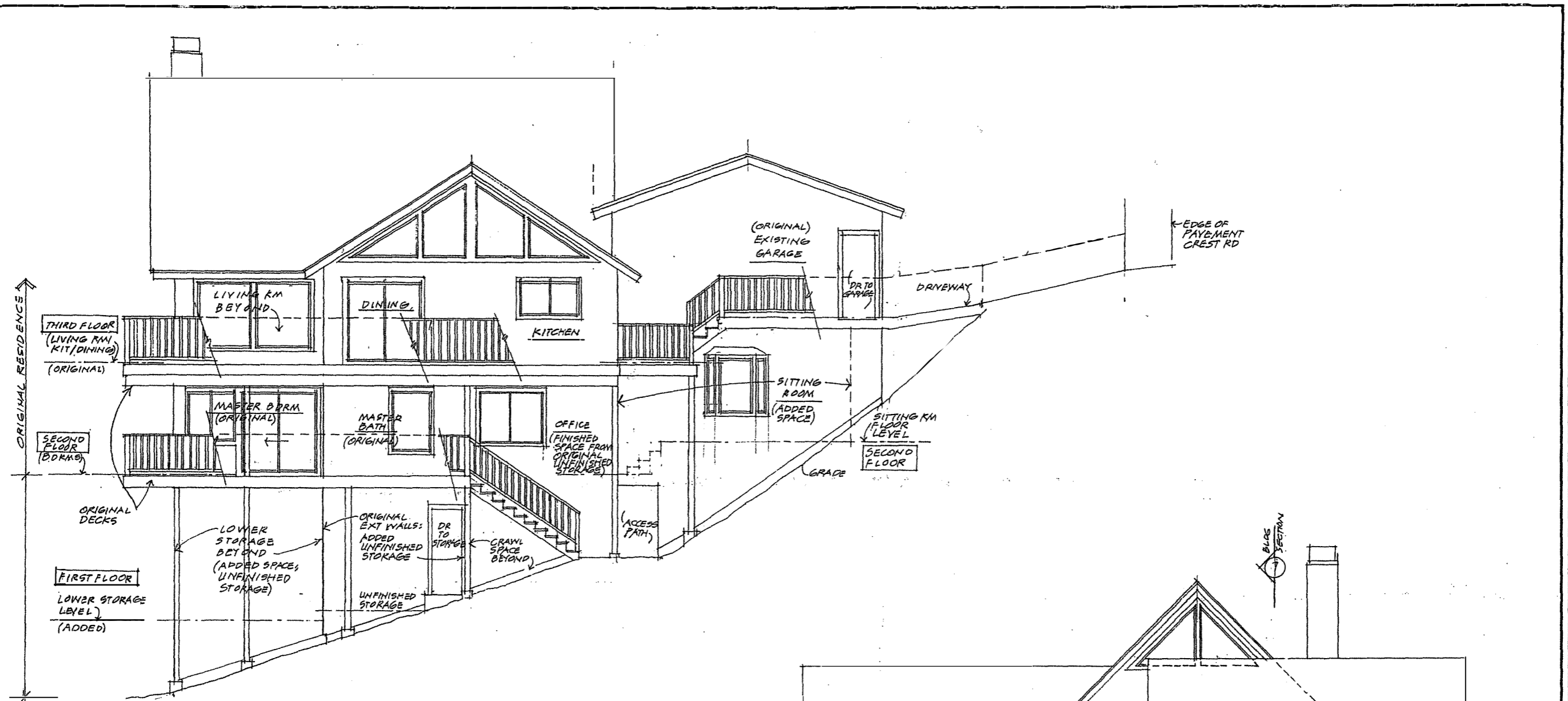


SORGEN RESIDENCE
 EXISTING RESIDENCE PLANS
 80 Crest Drive
 Fairfax CA 94930 AP#: 02-152-13

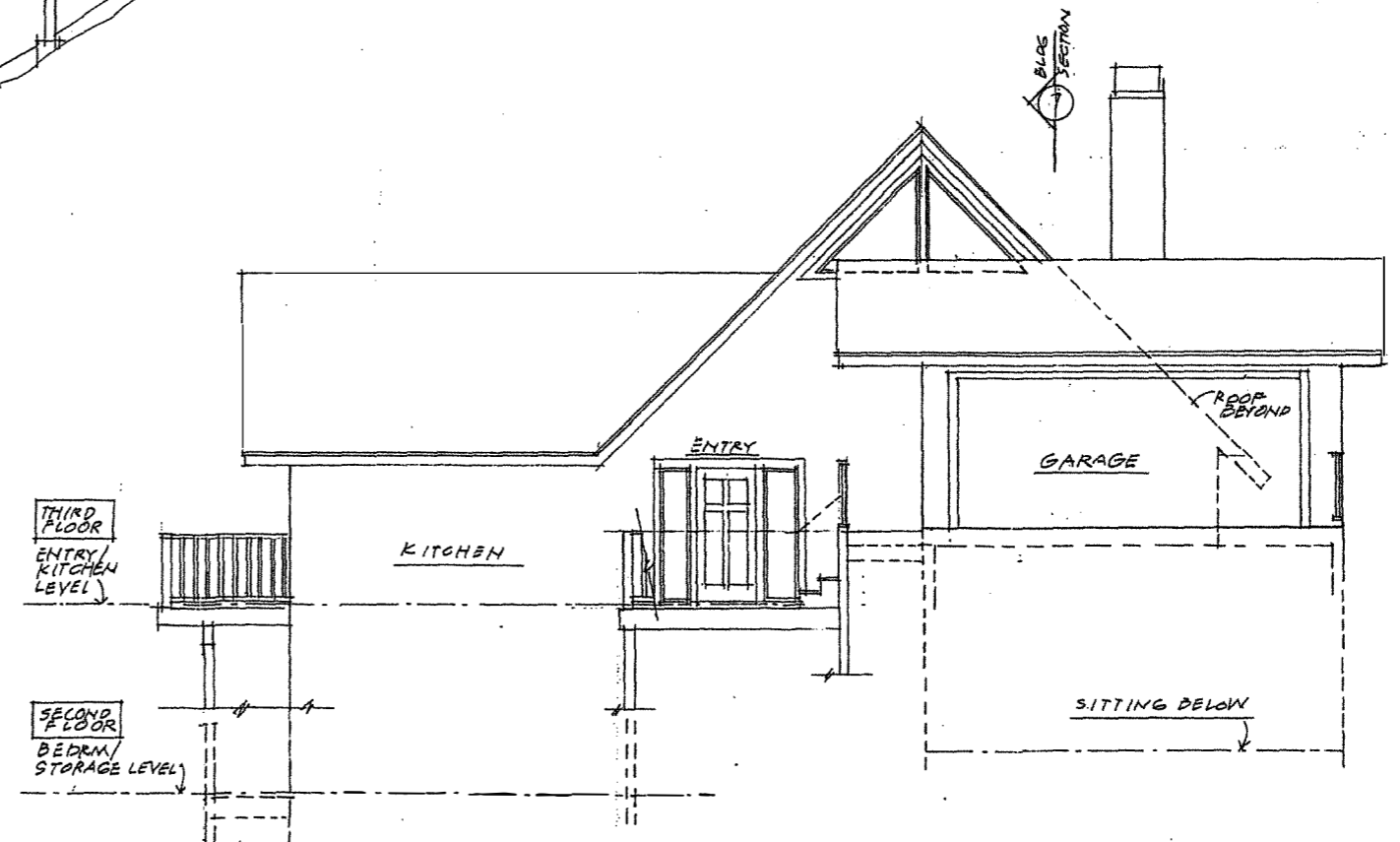
EXTERIOR ELEVATIONS

Date: 5/5/18
 Scale: 1/4" = 1'-0"
 Drawn:
 Job:
 Sheet: 5

LOFT
 FIRST FLOOR
 BASEMENT
 GROUND FLOOR



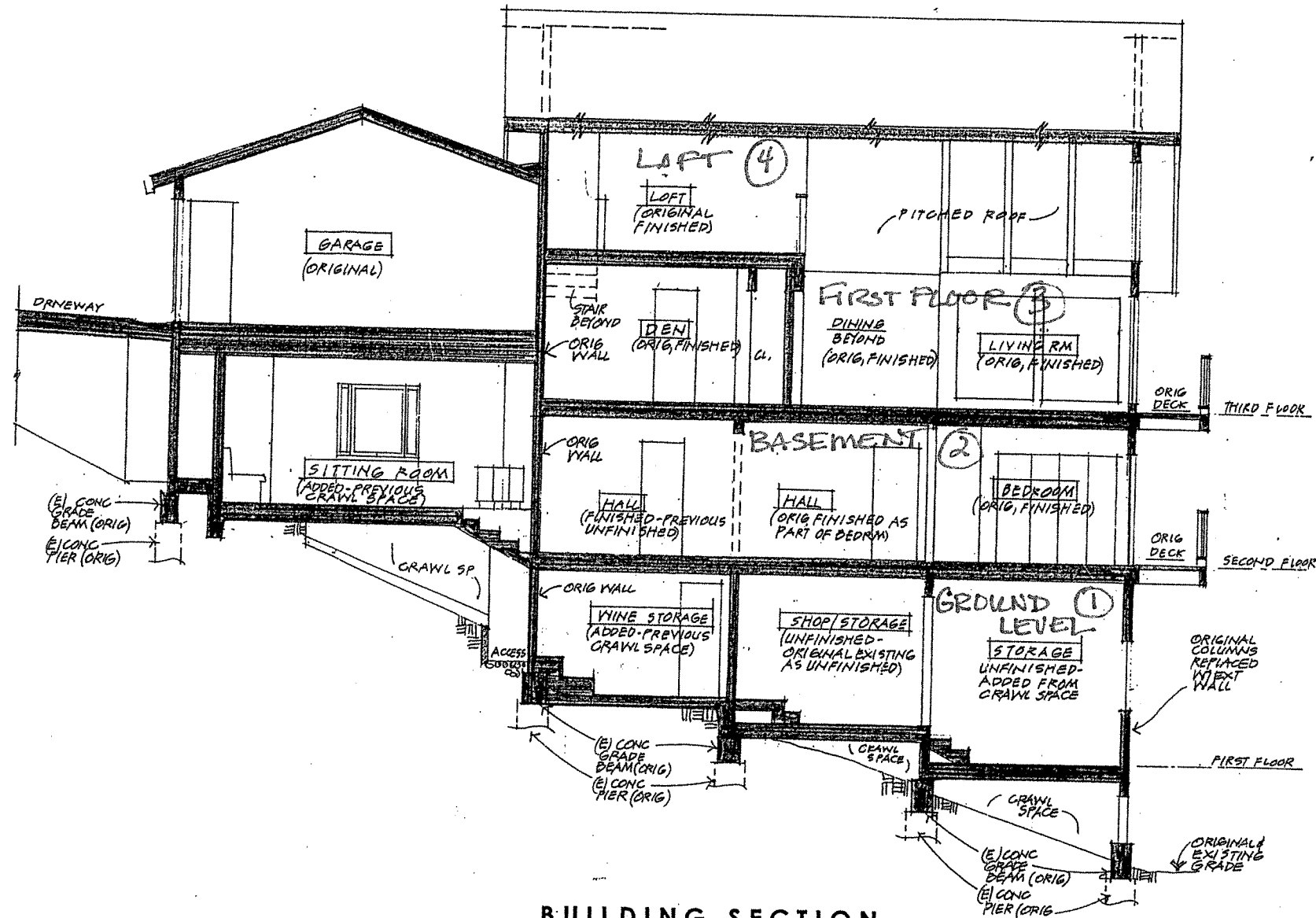
SOUTHEAST ELEVATION
 1/4" = 1'-0"



NORTHEAST ELEVATION
 (STREET VIEW)
 1/4" = 1'-0"

APPLICANT'S PLANS
 2018

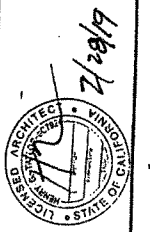
ATTACHMENT D



BUILDING SECTION
1/4" = 1'-0"

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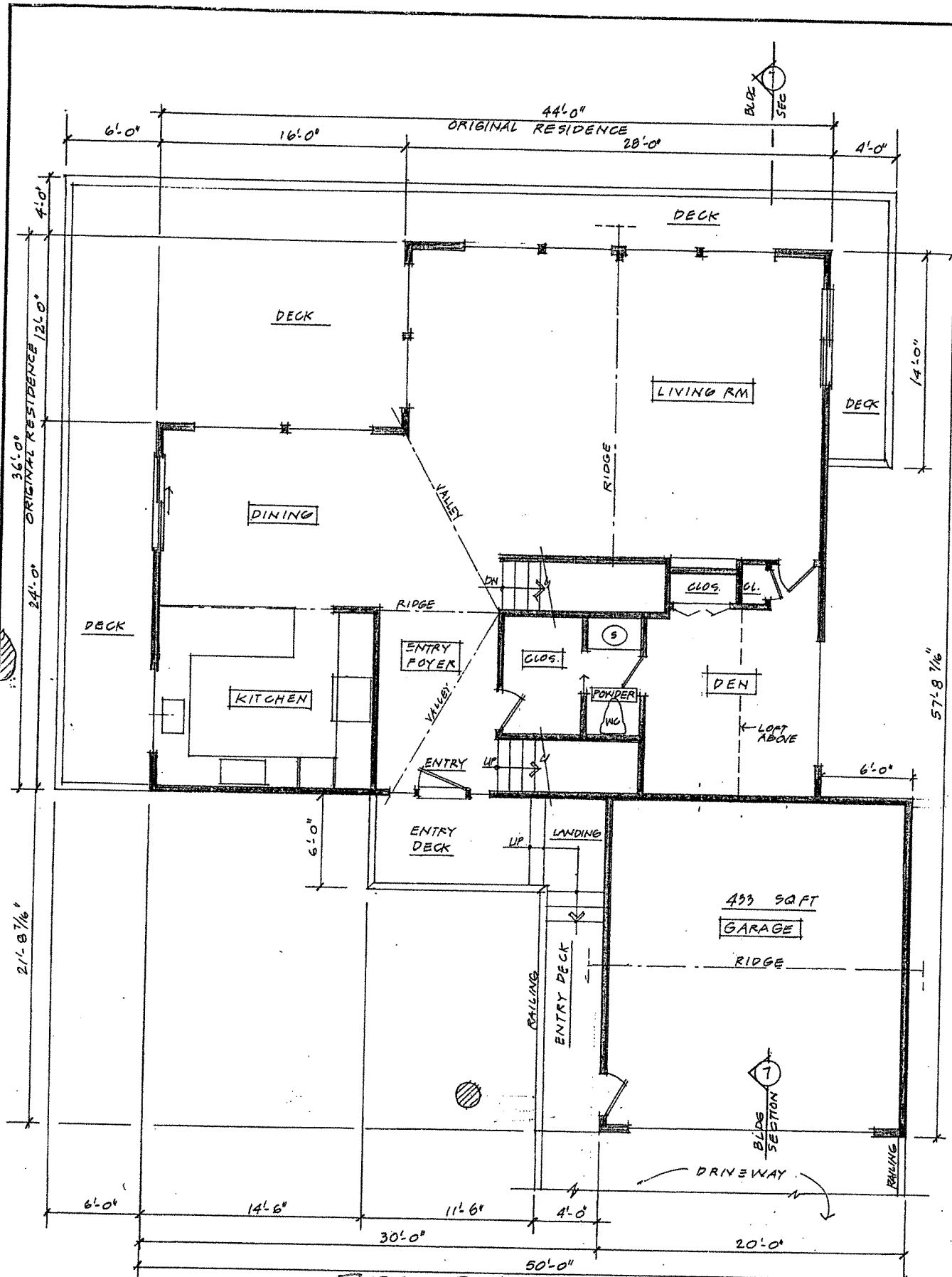
HENRY TAYLOR
ARCHITECTS
80 CREST ROAD
FAIRFAX
CALIFORNIA
94930
TEL 415.464.4021
FAX 415.464.4020



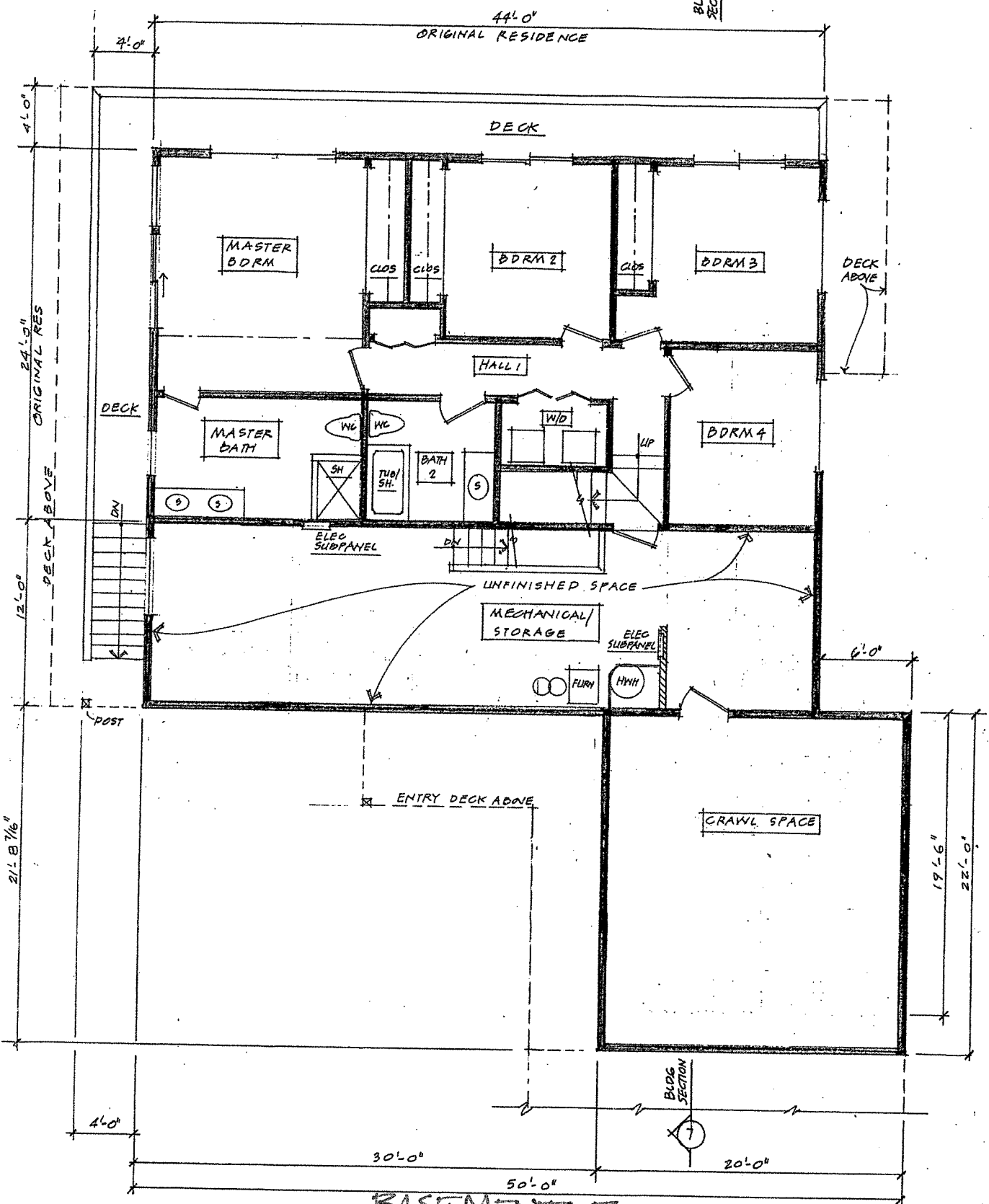
SORGEN RESIDENCE
EXISTING RESIDENCE PLANS
80 Crest Drive
Fairfax CA 94930 AP#: 02-152-13

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|-------------------------|--------------|
| BUILDING SECTION | |
| Date | 5/5/18 |
| Scale | 1/4" = 1'-0" |
| Drawn | |
| Job | |
| Sheet | 7 |

APPLICANTS PLANS
2018



**FIRST FLOOR
THIRD FLOOR PLAN
(ORIGINAL AREA-EXISTING-
NO AREA ADDED)**



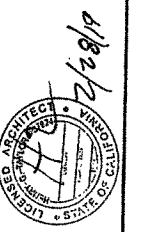
**BASEMENT FLOOR
SECOND FLOOR PLAN
(ORIGINAL AREA)**

APPLICANT'S PLANS
2018

| REVISIONS | BY |
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HENRY TAYLOR
ARCHITECTS
88 CRESTROAD
FAIRFAX CALIFORNIA
95938

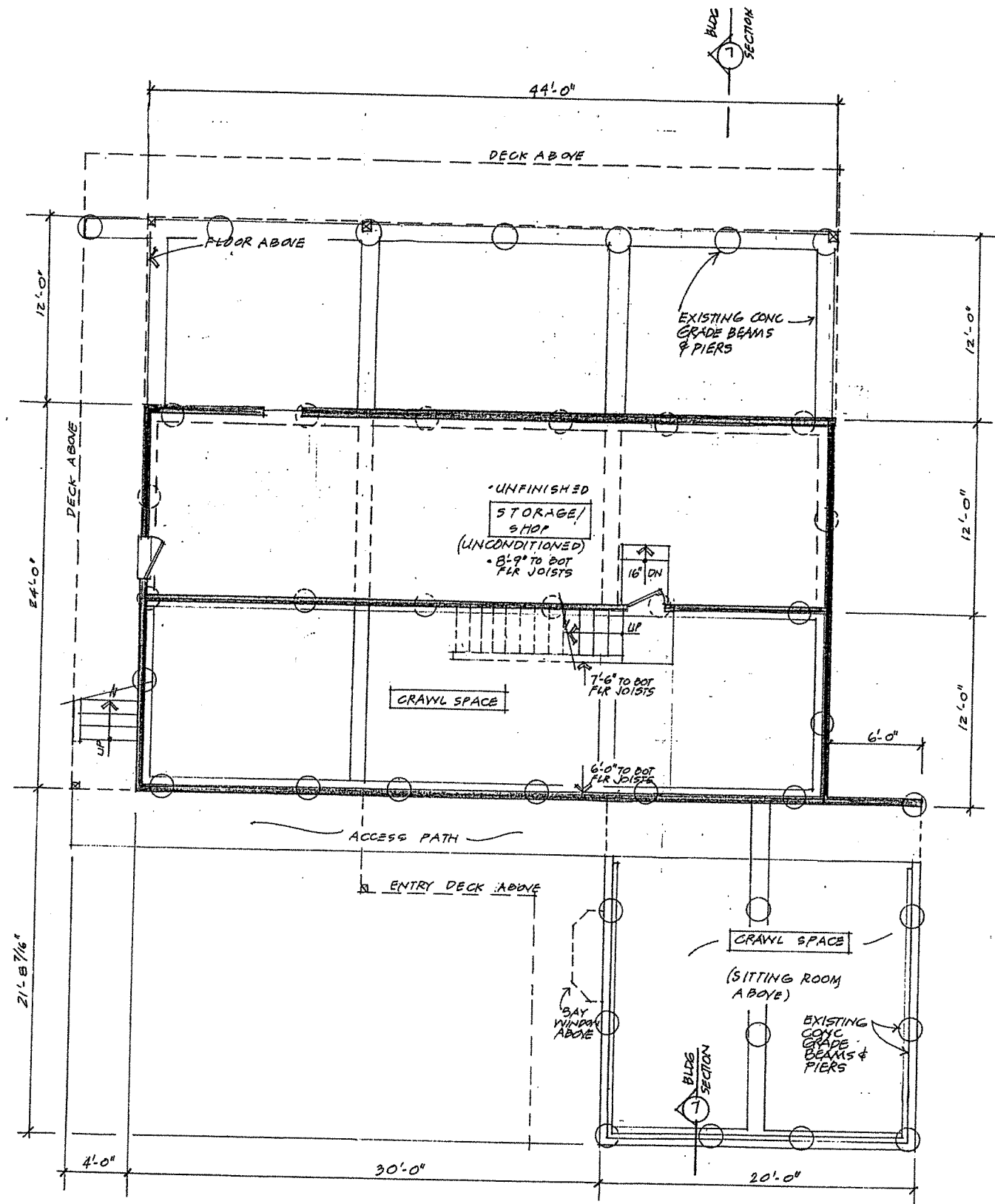
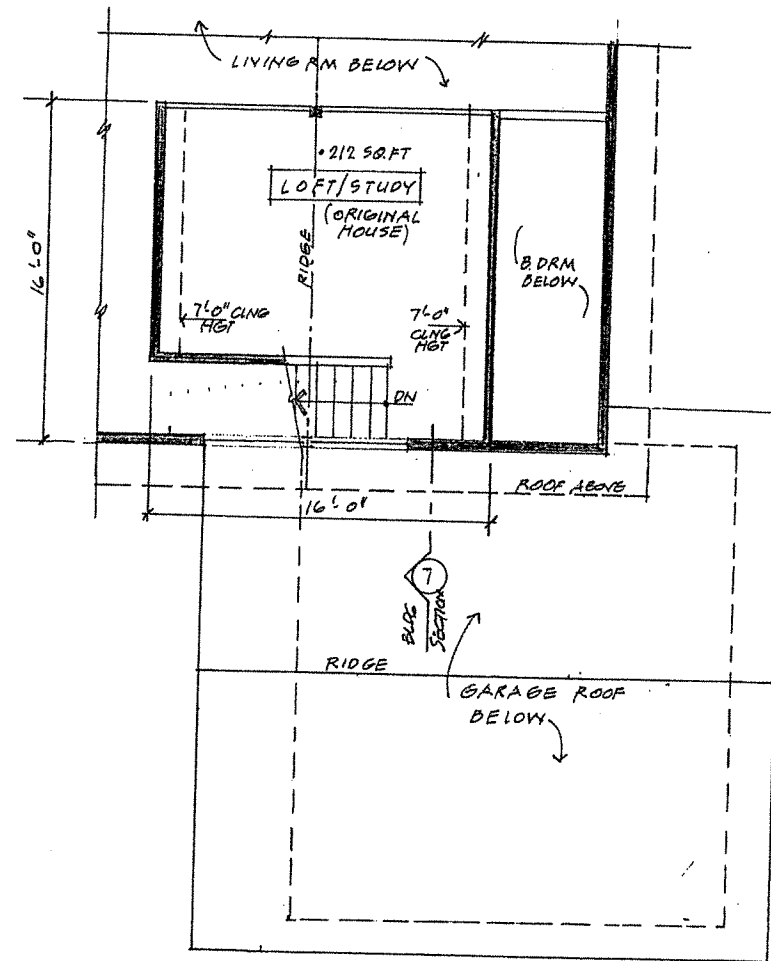
TEL 415.484.4021
FAX 415.484.4928



SORGEN RESIDENCE
EXISTING RESIDENCE PLANS
80 Crest Drive
Fairfax CA 94930 AP#: 02-152-13

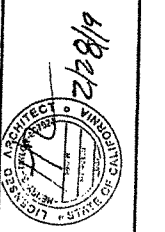
*ORIGINAL FLOOR PLANS
2ND/3RD FLR

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| Date | 5/5/18 |
| Scale | 1/4"=1'-0" |
| Drawn | |
| Job | |
| Sheet | 2 |
| Of 7 | Sheets |



| REVISIONS | BY |
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HENRY TAYLOR
ARCHITECTS
24 CREST ROAD
FAIRFAX CALIFORNIA
94930
TEL 415.484.4821
FAX 415.484.4828

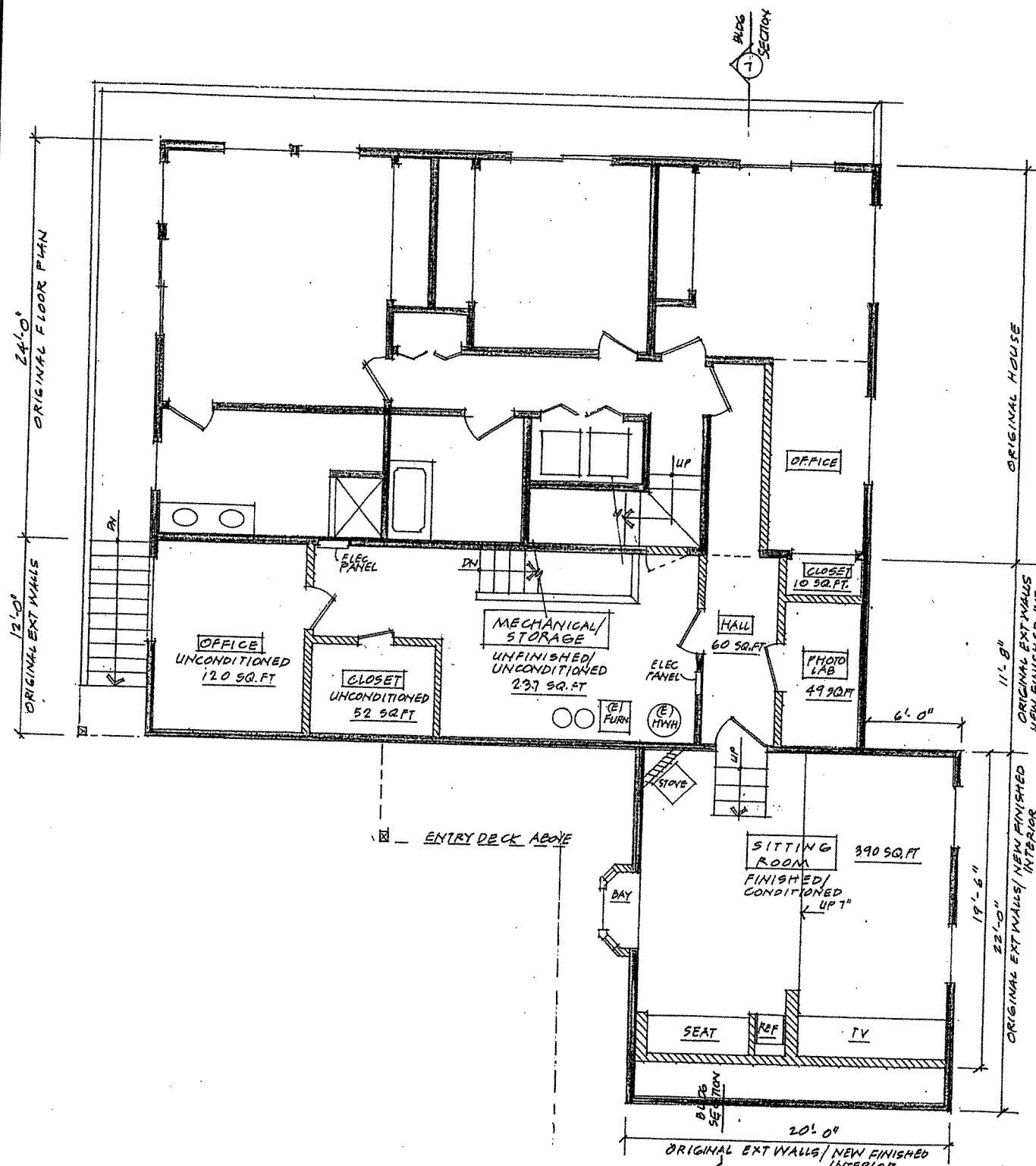


SORGEN RESIDENCE
EXISTING RESIDENCE PLANS
80 Crest Drive
Fairfax CA 94930 AP#: 02-152-13

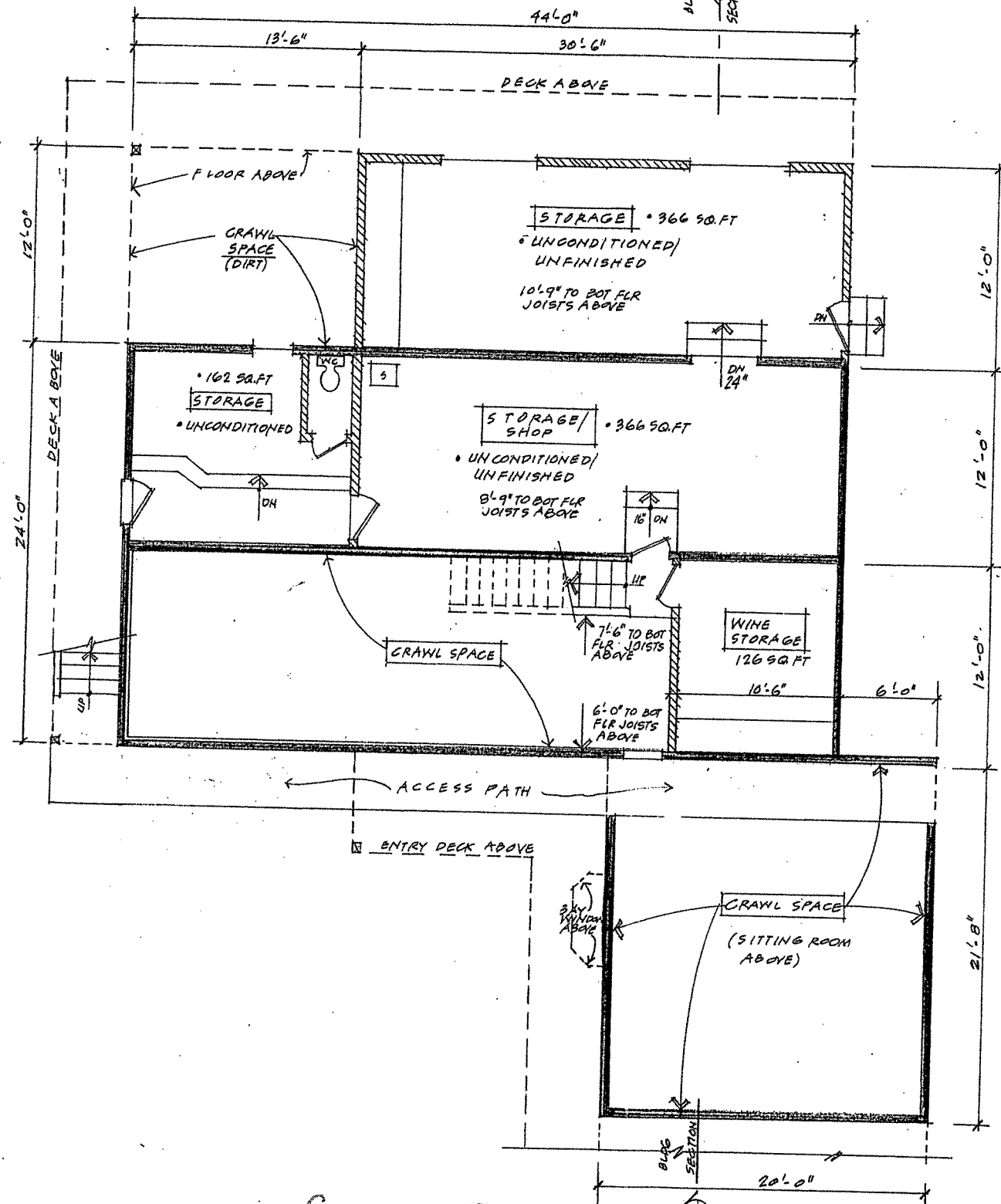
ORIGINAL FLOOR PLANS
1ST FLR/LOFT

| | |
|-------|--------------|
| Date | 5/5/18 |
| Scale | 1/4" = 1'-0" |
| Drawn | |
| Job | |
| Sheet | 3 |

APPLICANT'S PLANS
2018



**BASEMENT
SECOND FLOOR PLAN
(WITH NEW AREA ADDED)**
1/4" = 1'-0"



**GROUND FLOOR
FIRST FLOOR PLAN
(WITH NEW AREA ADDED)**
1/4" = 1'-0"

| REVISIONS | BY |
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HENRY TAYLOR
ARCHITECTS
88 CREST ROAD
FAIRFAX
CALIFORNIA
94930
TEL 415.464.4021
FAX 415.464.4025



SORGEN RESIDENCE
EXISTING RESIDENCE PLANS
80 Crest Drive
Fairfax CA 94930 AP#: 02-152-13

FLOOR PLAN
ADDITIONS
1ST/2ND FLRS
Date 5/5/18
Scale 1/4" = 1'-0"
Drawn
Job
Sheet **4**

APPLICANT'S PLANS
2018

RESOLUTION NO. 2019-13

A Resolution of the Fairfax Planning Commission Approving a Conditional Use Permit Legalizing the Expansion of the Basement Level of the Residence and Denying the Requested Height Variance for the Unpermitted Ground Floor level for the Residential Property at 80 Crest Road

WHEREAS, the Town of Fairfax has received an application from Verle and Marene Sorgen for a Conditional Use Permit and a Height Variance legalize 681 square feet of unpermitted, partitioned living space (509 square feet conditioned living space including a sitting room, hallway, photo lab, closet, 172 square feet unconditioned office/storage, and closet) and for a 1,020 square-foot, 4th (ground floor) level underneath the existing permitted 3-story structure that has been subdivided into a conditioned wine cellar, a room with a toilet, another room with a sink and a workshop with minor electrical improvements throughout the entirety of the space, two windows, and an exit door and stairway on the north side; and

WHEREAS, the Planning Commission held a duly noticed Public Hearing on October 17, 2019 at which time all interested parties were given a full opportunity to be heard and to present evidence; and

WHEREAS, the plans dated 5/5/18, prepared by Henry Taylor, Architect, pages 1 through 7, are conditioned to be modified to eliminate the following:

The 1,020 square feet of improvements in the ground floor 4th level, including all the stairways, flooring, any interior walls not necessary for the structural integrity of the building as recommended by the project structural engineer and verified by the Town Engineer after a peer review, the toilet, sink and wine storage room and any electrical not required to provide minimal visibility when accessing the underfloor area, as well as the 2 windows in the west side of the building.

The Planning Commission has determined that, as amended by the conditions of approval, the applicants have met the burden of proof required to support the findings necessary for the project's requested discretionary Conditional Use Permit to approve the portion of the unpermitted improvements to the basement/bedroom story of the residence; and

WHEREAS, the Planning Commission has made the following findings provided the ground floor 4th story of the structure is abated:

The project conforms to the following 2010-2030 Town of Fairfax General Plan Policies:

Policy LU-7.1.5: New and renewed residential development shall preserve and enhance the existing character of the Town's neighborhoods in diversity, architectural character,

ATTACHMENT E

size and mass.

Policy LU-7.2.2: To the extent feasible natural features including the existing grade, mature trees and vegetation shall be preserved for new and renewed development.

Conditional Use Permit

1. Legalization of the 509 square-foot conditioned living and 172 square feet of unconditioned space including the sitting room, hallway, photo lab and closet, and office/storage closet, are similar in size, mass, design and location on the site to other 3 story residential structures in the Crest Road neighborhood. Therefore, the approval of the use permit regarding these issues shall not constitute a grant of special privilege and shall not contravene the doctrines of equity and equal treatment. However, granting approval of the 4 story structure, in this neighborhood of 3 story structures, would result in a structure with a design out of character with the surrounding neighborhood.
2. The project will not exceed the Floor Area Ratio or Lot Coverage limitations, will comply with the RS-6 Zone District setback requirements and once the project is modified to eliminate the 4th, ground level story, it will comply with the height regulations reducing the height of the improved area of the structure from 50 to 33 feet in height. Therefore, the development and use of the property as approved shall not cause excessive or unreasonable detriment to adjoining properties or premises, or cause adverse physical or economic effects thereto, or create undue or excessive burdens in the use and enjoyment thereof, or any or all of which effects are substantially beyond that which might occur without approval or issuance of the Conditional Use permit.
3. Approval of the Conditional Use permit, with the plans modified to eliminate the 4th level of the house structure, is not contrary to those objectives, goals or standards pertinent to the particular case and contained or set forth in the 2010 to 2030 Fairfax General Plan and Zoning Ordinance, Title 17 of the Fairfax Town Code.
4. Approval of the Conditional Use permit, with plans modified as described above, will maintain the remainder of the site in its natural state requiring no significant excavation and/or removal of trees or vegetation and will provide the owners with additional living space and storage that is not available on the remainder of the site with its 48% slope. Approval of the Conditional Use permit, as modified in accordance with the above, will result in equal or better development of the premises than would otherwise be the case, and that said approval is in the public interest and for the protection or enhancement of the general health, safety or welfare of the community.

Height Variance for a 4 Story, 50 Foot Tall Residence

Whereas, the Planning Commission is denying the requested height variance for a 4-story residence based on the following findings:

5. The Town has not granted any height variances for a 4 level residence that staff can find any record of since its incorporation in 1931. Therefore approval of the project with a 4th level beneath the permitted 3 story residence would constitute a grant of special privilege; and
6. There are no special circumstances applicable to this 33,632 square-foot site that require additional square footage to be designed only as a 4th level, and there are opportunities and it is physically possible to design additional space as extensions of the basement and 1st floors of the residence to the north, south, and east of the existing structure. Therefore, denial of the requested height variance for a fourth level will not deprive the applicant of privileges enjoyed by other property owners in the vicinity and in the RS-6 Zone District.
7. The strict application of the 35 foot height limit would not result in excessive or unreasonable hardship for the owners as the removal of the unpermitted work is physically possible and would bring the property into compliance with the height regulations.
8. The denial of the height variance to allow a 4-story, 50 foot tall residence will protect the public welfare, maintain the site in a compatible manner to the hillside development on Crest Road and will protect the property values of other property in the vicinity where the 3-story height limit is being adhered to and in which the property is situated.

WHEREAS, the Planning Commission has approved the project as amended by to the following conditions:

1. This approval is limited to the development illustrated on the plans prepared by Henry Taylor, Architect, pages 1 through 7, to be modified to eliminate the ground floor improvements including the interior walls and floors, except those certified by the project structural engineer and verified by peer review of the Town Engineer, as being necessary for the structural integrity of the building. The toilet, sink, two windows in the western wall, the wine storage room, interior stairway, and any electrical improvements not necessary to provide lighting for routine maintenance of the ground floor foundation area shall be removed.
2. The applicant shall submit plans and apply for construction permits within 120 days of this approval and shall complete the work in 6 months.

3. The applicant shall pay all applicable planning, building and penalty fees for the legalization of the unpermitted work prior to issuance of the building permit for the project and for the Town Engineer peer review of the abatement/demolition plans for ground floor area.
4. Prior to issuance of any of the building permits for the project the applicant or his assigns shall submit a construction plan to the Public Works Department which may include but is not limited to the following:
 - a) Construction delivery routes approved by the Department of Public Works
 - b) Construction schedule (deliveries, worker hours, etc.)
 - c) Notification to area residents
 - d) Emergency access routes
5. The applicant shall prepare, and file with the Public Works Director, a video tape of the roadway conditions on the public construction delivery routes (routes must be approved by Public Works Director).
6. Prior to submittal of the building permit plans, the applicant shall secure written approval from the Ross Valley Fire Authority, Marin Municipal Water District and the Ross Valley Sanitary District noting the development conformance with their regulations.
7. During the construction process the following shall be required:
 - a. All construction-related vehicles including equipment delivery, cement trucks and construction materials shall be situated off the travel lane of the adjacent public right(s) -of-way at all times. This condition may be waived by the Building Official on a case-by-case basis with prior notification from the project sponsor.
 - b. Any proposed temporary closures of a public right-of-way shall require prior approval by the Fairfax Police Department and any necessary traffic control, signage or public notification shall be the responsibility of the applicant or his/her assigns. Any violation of this provision will result in a stop work order being placed on the property and issuance of a citation.
8. Prior to issuance of an occupancy permit the Planning Department shall verify that all planning commission conditions have been complied with prior to issuance of the certificate of occupancy and project final inspection.
9. The roadways shall be kept free of dust, gravel and other construction materials by sweeping them, daily, if necessary.
10. Any changes, modifications, additions or alterations made to the approved set of plans, other than those described in the resolution, will require a modification of

Application # 19-10. Modifications that do not significantly change the project, the project design or the approved discretionary permits **may** be approved by the Planning Director. Any construction based on job plans that have been altered without the benefit of an approved modification of Application 19-10, other than in accordance with this resolution, will result in the job being immediately stopped and red tagged.

11. Any damages to the public portions of Crest Road, or other public roadway used to access the site resulting from construction activities shall be the responsibility of the property owner.
12. The applicant and its heirs, successors, and assigns shall, at its sole cost and expense, defend with counsel selected by the Town, indemnify, protect, release, and hold harmless the Town of Fairfax and any agency or instrumentality thereof, including its agents, officers, commissions, and employees (the "Indemnitees") from any and all claims, actions, or proceedings arising out of or in any way relating to the processing and/or approval of the project as described herein, the purpose of which is to attack, set aside, void, or annul the approval of the project, and/or any environmental determination that accompanies it, by the Planning Commission, Town Council, Planning Director, Design Review Board or any other department or agency of the Town. This indemnification shall include, but not be limited to, suits, damages, judgments, costs, expenses, liens, levies, attorney fees or expert witness fees that may be asserted or incurred by any person or entity, including the applicant, third parties and the Indemnitees, arising out of or in connection with the approval of this project, whether or not there is concurrent, passive, or active negligence on the part of the Indemnitees. Nothing herein shall prohibit the Town from participating in the defense of any claim, action, or proceeding. The parties shall use best efforts, acting in good faith, to select mutually agreeable defense counsel. If the parties cannot reach agreement, the Town may select its own legal counsel and the applicant agrees to pay directly, or timely reimburse on a monthly basis, the Town for all such court costs, attorney fees, and time referenced herein, provided, however, that the applicant's duty in this regard shall be subject to the Town's promptly notifying the applicant of any said claim, action, or proceeding.
13. The applicant shall comply with all applicable local, county, state and federal laws and regulations. Local ordinances which must be complied with include, but are not limited to: the Noise Ordinance, Chapter 8.20, Polystyrene Foam, Degradable and Recyclable Food Packaging, Chapter 8.16, Garbage and Rubbish Disposal, Chapter 8.08, Urban Runoff Pollution Prevention, Chapter 8.32 and the Americans with Disabilities Act and Best Management Practices for Stormwater Pollution Prevention.
14. Conditions placed upon the project by outside agencies, Town department or by the Town Engineer may be eliminated or amended with that agency's, department's or the Town Engineer's written notification to the Planning Department prior to issuance of the building permit.

Ross Valley Fire Department

15. All vegetation and construction materials are to be maintained away from the residence during construction.
16. The project requires installation of a fire sprinkler system that complies with the National Fire Protection Association regulation 13-D and local standards. The system will require a permit from the Fire Department and the submittal of plans and specifications for a system submitted by an individual or firm licensed to design and/or design-build sprinkler systems.
17. All smoke detectors in the residence shall be provided with AC power and be interconnected for simultaneous alarm. Detectors shall be located in each sleeping room, outside of each sleeping room in a central location in the corridor and over the center of all stairways with a minimum of 1 detector on each story of the occupied portion of the residence.
18. Carbon monoxide alarms shall be provided in existing dwellings when a permit is required for alterations, repairs, or addition and the cost of the permit exceeds \$1,000.00. Carbon monoxide alarms shall be located outside of each sleeping area in the immediate vicinity of the bedrooms and on every level of the dwelling, including basements.
19. Address numbers at least 4 inches tall must be in place adjacent to the front door. If not clearly visible from the street, additional numbers must be placed in location that is visible from the street. The numbers must be internally illuminated or illuminated by and adjacent light controlled by a photocell that can be switched off only by a breaker so it will remain illuminated all night.
20. Plans submitted for the building permit shall show a 20-foot-wide fire road within 150 feet of any portion of the basement floor exterior walls and will have to indicate how the required 1000 gallons per minute fire flow will be provided.
21. Alternative materials or methods may be proposed for any of the above conditions in accordance with Section 104.9 of the Fire Code.
22. All approved alternatives requests, and their supporting documentation, shall be included in the plan sets submitted for final approval by the Fire Department.
23. A 20 foot wide (fire) road width must be provided within 150 feet of any portion of the ground floor exterior walls.
24. The inadequate fire flow pressure which currently does not meet the minimum

required 1,000 gallons per minute, must be brought up to code as part of the legalization process.

Marin Municipal Water District (MMWD)

25. A copy of the building permit must be provided to the district along with the required applications and fees.
26. All indoor and outdoor requirements or District Code Title 13, Water Conservation must be complied with.
27. Any landscaping plans must be reviewed and approved by the District.
28. Backflow prevention requirements must be met.
29. Ordinance 420., requiring installation of grey water recycling system when practicable, must be incorporated into the project building permit plans or an exemption letter from the District must be provided to the Town.
30. All of the District's rules and regulations in effect at the time service is requested must be complied with.

Ross Valley Sanitary District (RVSD)

31. The condition of the sewer lateral must be evaluated by the District.
32. The lateral capacity will be evaluated depending on the fixture count calculated during the building permit process.
33. The lateral shall be tested in the presence of the District Inspector who determines if it meets current District requirements or a new lateral must be installed.
34. The project must comply with the District Ordinance 90 relating to sewer connection fees and sewer permit fees and the District will not final the building permit until the District requirements are fulfilled.

NOW, THEREFORE BE IT RESOLVED, the Planning Commission of the Town of Fairfax hereby finds and determines as follows:

The approval of the Conditional Use Permit can occur without causing significant impacts on neighboring residences as long as the above conditions are met; and
The foregoing resolution was adopted at a regular meeting of the Planning Commission

held in said Town, on the 17th day of October, 2019, by the following vote:

AYES: Fragoso, Gonzalez-Parber, Newton, Rodriquez, Swift
NOES: Kehrlein
ABSTAIN:
ABSENT: Green



Chair, Cindy Swift

Attest:



Ben Berto, Director of Planning and Building Services



TOWN OF FAIRFAX

142 BOLINAS ROAD, FAIRFAX, CALIFORNIA 94930
(415) 453-1584 / FAX (415) 453-1618

NOTICE OF APPEAL

FOR STAFF USE

OCT 23 2019

Date: 10/23/19 Fee: \$500.00

Appl.#

Receipt# 1-57869

Recvd. By: Susan Rogers and Hannah Peltier

Action: _____

The purpose of the appeal procedure is to provide recourse in case it is alleged that there is an error in any order, requirement, permit, decision or determination by any administrative official, advisory body or commission in the administration or enforcement of the City Ordinances. Any person aggrieved by the action of any administrative official, advisory board or commission in the administration or enforcement of any ordinance in the Town Code may make verified application to the Town Clerk in the manner prescribed by the Town Council within ten (10) days of action that is appealed.

FEE: Fees are set by resolution of the Town Council. See fee schedule for current application fees.

PLEASE PRINT

Appellant's name Verle and Marene Sargen /o Riffkind Law Group 1010 B Street
Suite 300
San Rafael, CA 94901

Mailing address 80 Crest Road, Fairfax Zip: 94930 Day phone 415-785-7988

Property Address: 80 Crest Road

I appeal the decision of: (list board, commission, or department and decision, for example: Planning Commission denial of variance) application # 19-10 and approval of Resolution No. 2019-13

The following are my reasons for appeal:
See Attached.

I hereby declare that I have read the foregoing Notice of Appeal and know the contents thereof. I further declare under penalty of perjury that the information supplied by me is true and correct.

Executed this 23 day of October, 2019

SIGNATURE OF APPELLANT: [Signature]

Leonard A. Riffkind (4/94)
Attorney for Appellants and Property Owners

Printed on Recycled Paper

[Handwritten Signature]

Attachment #1

1. As you have mentioned in your e-mail, Len Rifkind is no longer representing us in this matter. We are in the process of selecting a replacement, if this becomes necessary going forward. In the meantime, please direct any questions or information to :

vsorgen@comcast.net

msorgen@comcast.net

If you wish, please call at any time: 415-456-8465 (house land line)
415-699-6729 (Marny cell phone)

2. The question of the stairs going down from the bedroom level to the wine cellar level is removed from the present discussion. As far as we are concerned, this was not an offer made in good faith by Linda. She has had for 4 years (or should have) a copy of a work order from the original contractor showing construction of a set of stairs going between the lower bedroom level and the wine cellar. A copy of that work order was included in the slide show presentation Len Rifkind made before the Planning Commission back at that time. I have attached another copy for your information as attachment #2 in case you need it. The stairs were originally included and are essential, since the main water valve turn-off for the house is located in the wine cellar. We would think that information is included in the set of plans in your possession

3. We have been and still are ready to discuss any reasonable solution directly related to the current matter, but as of now, after six years, there has been no proposal from Linda related to our original submission to the Planning Commission nor to our subsequent appeal. One example is the current one cited in #2 above. Instead, here are just a few other samples of the several proposals Linda has presented to us over this intervening time:

A. We would have to widen Crest Road in front of our house.

B. The house exceeds the present height limit

Answer: The house is the same height as originally approved by the Town in 1973.

C. The number of floors exceeds the present allowed, by the Town.

Answer: Same as in B.

Surely there is someone in the Town governmental structure with enough commonsense to address the actual problem, namely our original request to the Town of Fairfax.

Perhaps, we might suggest in closing that the concept and implementation of Occam's Razor could be applied to the mutual satisfaction of all parties. It can be done.

GROUNDS FOR APPEAL

A. Insufficient findings made to Deny Height Variance or in the Alternative Failed to Determine that no Height Variance is Required Because the Single-Family Residence has Legal Non-conforming Status.

1. A height variance should be granted because the height of the residence constructed in 1973 has not changed in height since the date the Town gave final approval in 1973.
2. Original exterior walls existed down to the foundation level at the time of construction, thus the height of the structure has not changed.
3. The Town approved the final building permit in 1973 and issued a certificate of occupancy or otherwise authorized occupancy of the property.
4. Appellants have a vested right to retain the existing structure in reliance on their building permit, which was built according to plan. Subsequent addition of exterior walls on the western elevation did not add to the structure's height because of pre-existing walls built to the foundation in 1973 during construction.
5. At the time of issuance of the building permit in 1972, Ordinance 230 was in effect and contained no limit on the number of stories a single-family residential building could have, and also did not define what constituted a story. Accordingly, to the extent the present structure has four stories, which it does not, even under current code requirements, the four stories are legally non-conforming.
6. Factually, the lowest level was constructed at the time of original construction, including the wine cellar, electrical wiring, flooring and an emergency exit door on the southern elevation.
7. The exterior walls constructed within the past 10-15 years on the western elevation were necessary for life-safety purposes to structurally stabilize the building.
8. Ross Valley Fire Department conditions of approval: (a) fire sprinkler the entire interior, (b) widen Crest Road, and (3) improve fire-flow water pressure to 1000 gpm, cannot apply to a legal non-conforming structure.
9. Staff suggestion to expand the footprint of the residence for additional space both constitutes poor design and is not in compliance with the Fairfax General Plan.

Submitted by Applicant at the 10/17/19 Commission meeting.

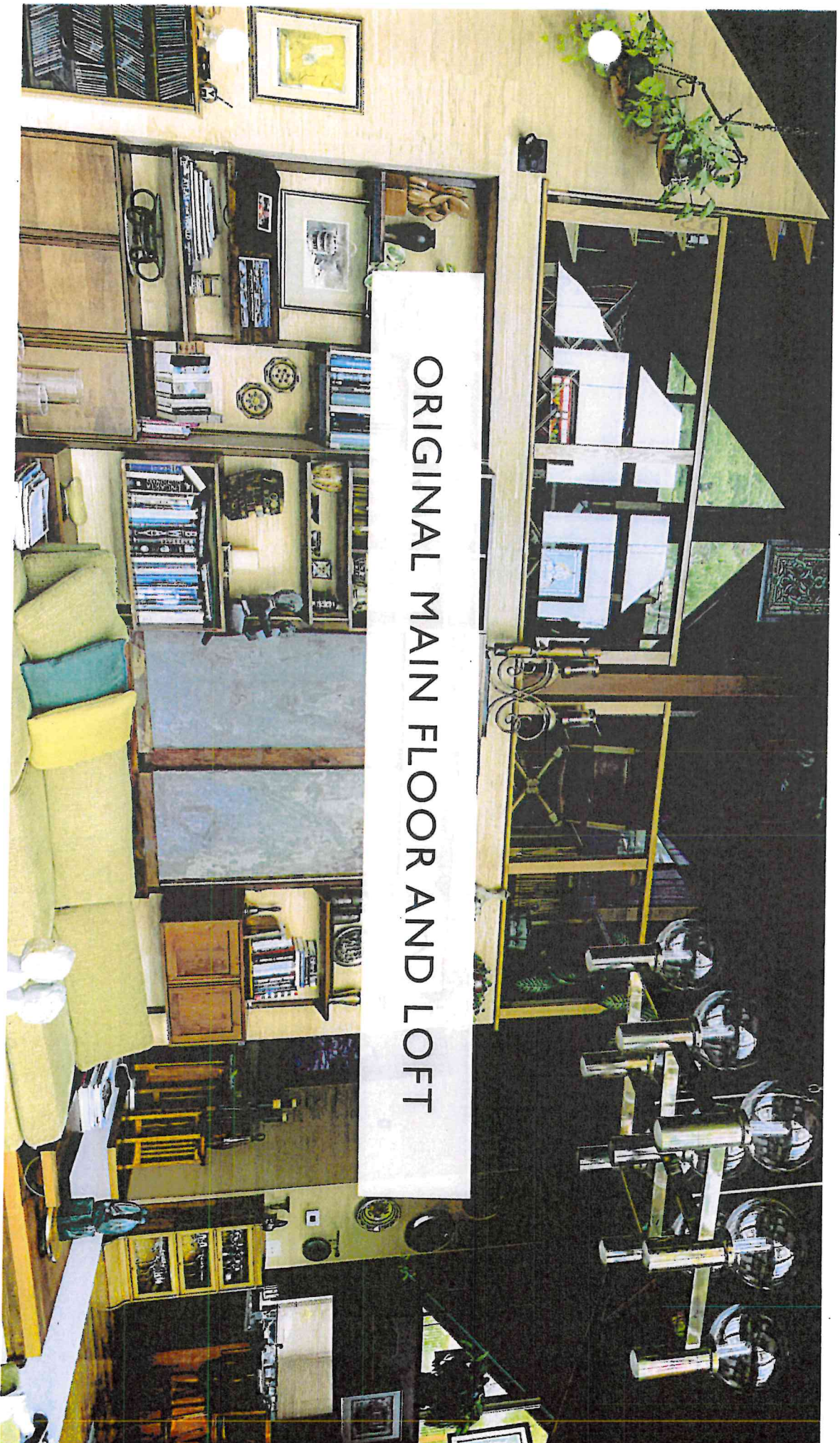
80 CREST ROAD

Original West wall of ground floor
with windows



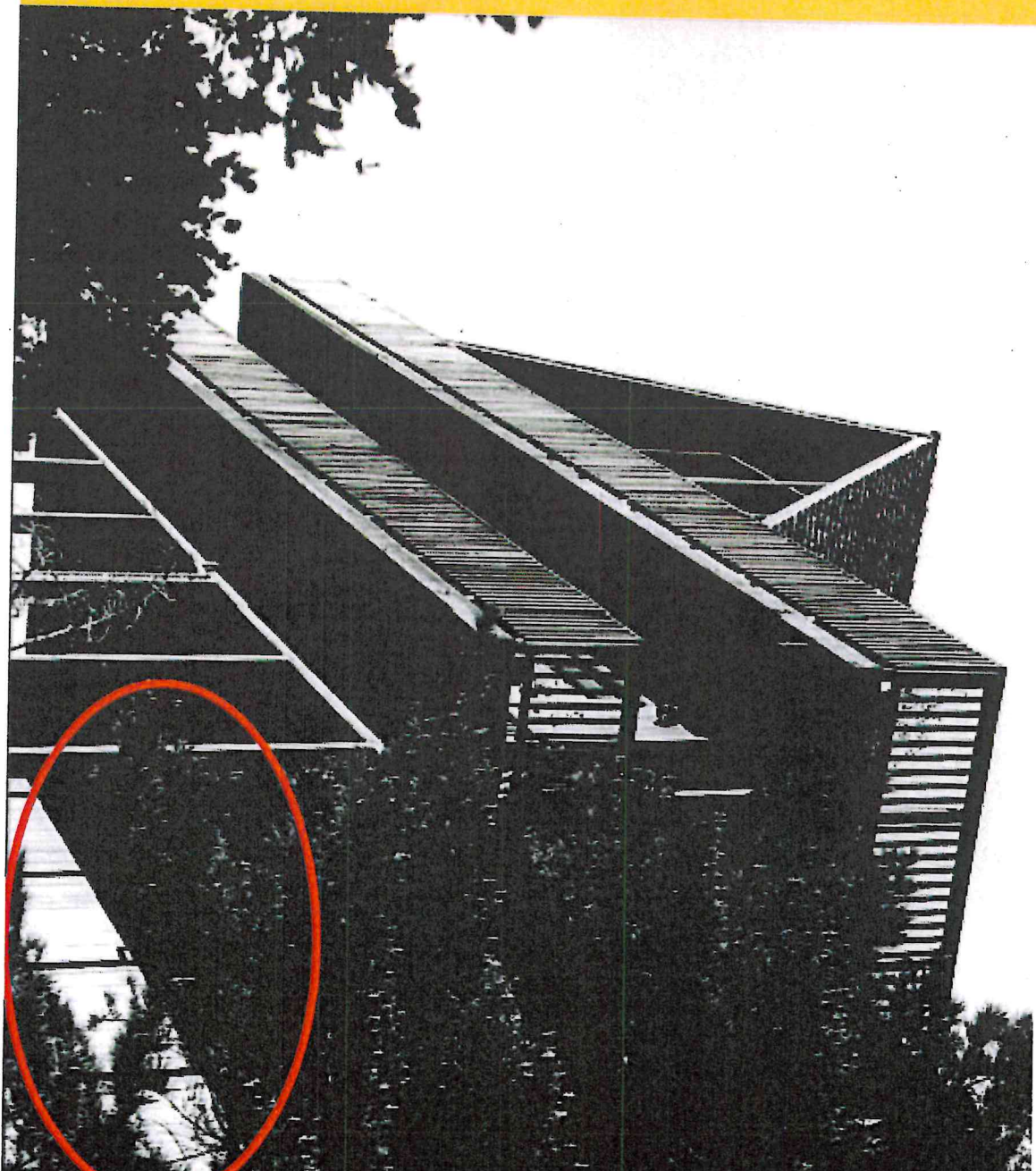
Original siding went
to foundation.





ORIGINAL MAIN FLOOR AND LOFT

1973 Photo showing
ground floor enclosed.



Original construction
included stairs to wine cellar
in 1972-1973.



ADDITIONAL WORK AUTHORIZATION

| | | |
|------------------------|----------|------------|
| OWNER'S NAME | PROJECT | DATE |
| STREET | JOB NAME | JOB NUMBER |
| CITY | STATE | CITY |
| DATE OF ORDER/CONTRACT | CITY | STATE |

You are hereby authorized to perform the following specifically described additional work:

ADDITIONAL CHARGE FOR ABOVE WORK IS: \$ _____

PAYMENT WILL BE MADE AS FOLLOWS: _____

ABOVE ADDITIONAL WORK TO BE PERFORMED UNDER SAME CONDITIONS AS SPECIFIED IN ORIGINAL CONTRACT UNLESS OTHERWISE STIPULATED.

Date _____ 19____ Authorizing Signature _____

(OWNER'S SIGNATURE HERE)

WE HEREBY AGREE TO FURNISH LABOR AND MATERIALS - COMPLETE IN ACCORDANCE WITH THE ABOVE SPECIFICATIONS, AT ABOVE STATED PRICE.

Authorized Signature _____

(CONTRACTOR SIGNATURE HERE)

Date _____

THIS IS CHANGE ORDER NO. _____

19____

NOTE: This form is to be used in conjunction with the selling contract.
Form 139 - The National Business Service, Inc., Framingham, Mass.

CONCLUSION

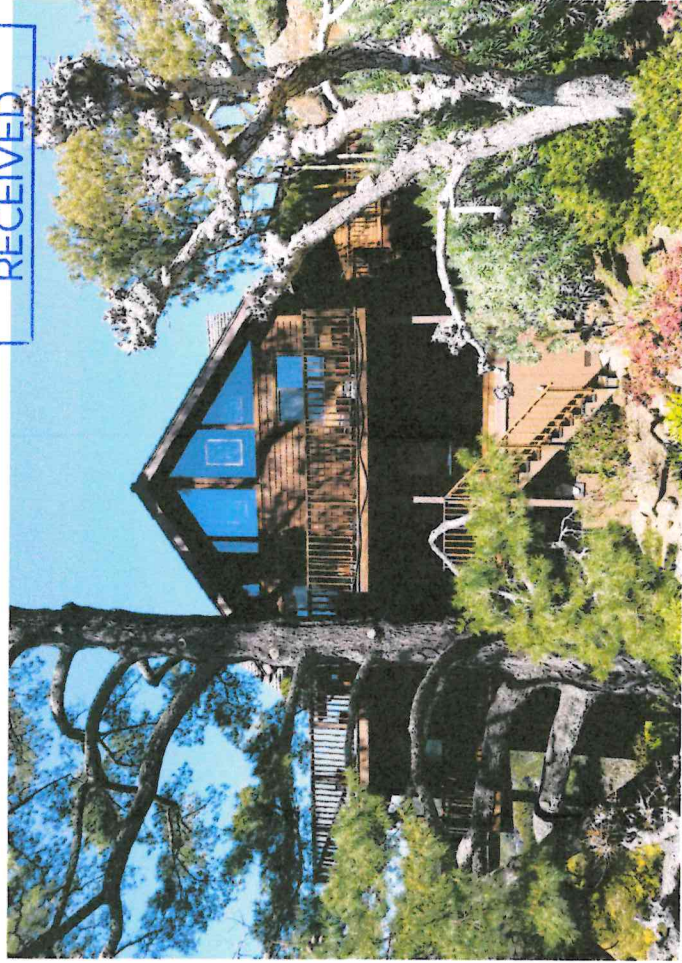
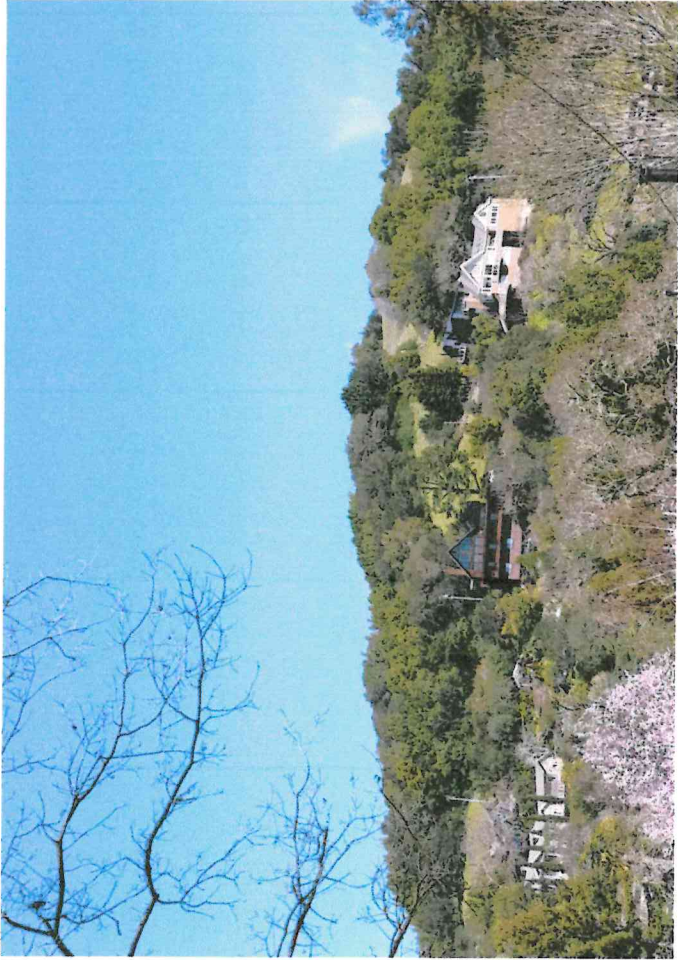
1. Mrs. Sorgen has resided in her property 46 years since 1973. She is 80 years old. Mr. Sorgen is 87 years old. The Sorgens cannot possibly afford the Town proposed requirements to widen the road, sprinkler the residence, and increase water pressure to 1000 gpm. These conditions do not apply because the residence, except for two improvements is legal non-conforming. As for the two additions, CUP findings can be made.
2. The original footprint of the residence has not changed. Only two areas have been added without permit: western storage (366 sf) and TV room (420sf) under the garage. Wine storage original and does not constitute a story. The remainder of the house is legal non-conforming and predates FMC Sec. 17.080.060.
3. There has been no change to the height of residence since constructed and completed in 1973, accordingly no height variance is required.
4. The ground floor level existed, except the western storage, which was enclosed within confines of original footprint. Original ground floor was required for fire access on the south elevation. Some additional floor added to ground floor and modest toilet added for access to pool on south side yard.
5. None of the improvements are visible to neighbors.

80 CREST RD

TOWN OF FAIRFAX

MAR 18 2019

RECEIVED



January 6, 2020

Project No: 19-164

Marny and Verle Sorgen

E-Mail: lmsorgen@gmail.com

RE: EVALUATION OF PLANNING REPORTS AND ON-SITE STRUCTURAL ASSESSMENT 80 CREST ROAD, FAIRFAX, CALIFORNIA

Dear Marny and Verle:

As requested we performed a review and general assessment of structural conditions and Fairfax Planning reports for the above listed property concurrent with our contract for engineering consulting services.

No representations or warranties are made with respect to the condition or capability of members hidden by surface finishes or otherwise obscured. The observations, conclusions, and guideline recommendations contained in this report have been made using that degree of care and skill customarily performed under such conditions by reputable Engineers practicing in that field, in the same locality under similar conditions. No Guarantees or warranties, implied or explicit are, or have been made particularly in regard to work performed by other contractors, design professionals, or local Geologic conditions.

We performed an on-site assessment on November 15, 2019 at approximately 1:00pm. The weather was clear with good visibility. Our comments and conditional conclusions on existing field conditions visible at the time of our site visit.

This report has been prepared for your exclusive use, based upon your particular personal specific concerns; it may not be relied upon by others without the written permission of the undersigned. Third party readers of this report should engage their own experts to provide them with opinions and advice.

WE REVIEWED THE FOLLOWING INFORMATION AS PART OF OUR WORK:

- *Planning Application Form – Town of Fairfax, February 25, 2019*
- *Transmittal – Rifkind Law Group., October 9, 2019, Points and Authorities regarding variance and use permit requirements.*
- *Town of Fairfax Staff Report, October 17, 2019, Points and Authorities regarding variance and use permit requirements.*
- *Notice of Appeal, October 23, 2019. Leonard A. Rifkind on behalf of Verle and Marene Sorgen.*
- *Fairfax Planning Commission Resolution 2019-13*



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- Existing *Construction Drawings – Sorgen Residence, May 5, 2018. Henry Taylor Architects.*

EXISTING BUILDING DESCRIPTION

The building is a conventionally constructed multi-story wood-framed structure supported on a combination of concrete retaining walls, pier and grade beams, and downslope concrete tie beams. Decks extend from the rear of the structure(s) and are supported on a combination of bearing walls, posts and beams. Existing siding consists of T1-11 and 3/8" plywood nailed to 2x studs through building paper. The building is constructed on a sloping site, on a lot on the west side of Crest Road in Fairfax California. A crawl space lies beneath the underside of the wooden floor. Grade is moderately level to sloping throughout underfloor areas.

SITE SOIL CONDITIONS

Based on a review of the USGS online soil maps, the site is located straddling a zone of Franciscan Mélange Bedrock and Jurassic Greenstone.

HISTORIC RECORDS

A Photo taken in 1973 clearly shows an existing bearing/shearwall across the downhill side of the structure. This photo was part of the PowerPoint exhibit prepared and presented by Rifkind Law Group dated October 9, 2019, and is shown again below in figure 1. The north, west, and south undersides of the downhill structure were supported on wood posts and beams without lateral bracing. It is our understanding that the three unbraced bearing lines were infilled within the past 10-15 years in order to provide life-safety upgrades and adequate lateral rigidity across the ground floor of the structure. Wood framed diaphragms were added in order to provide out of plane bracing to the vertical load carrying elements. The enclosed area is currently used as storage.

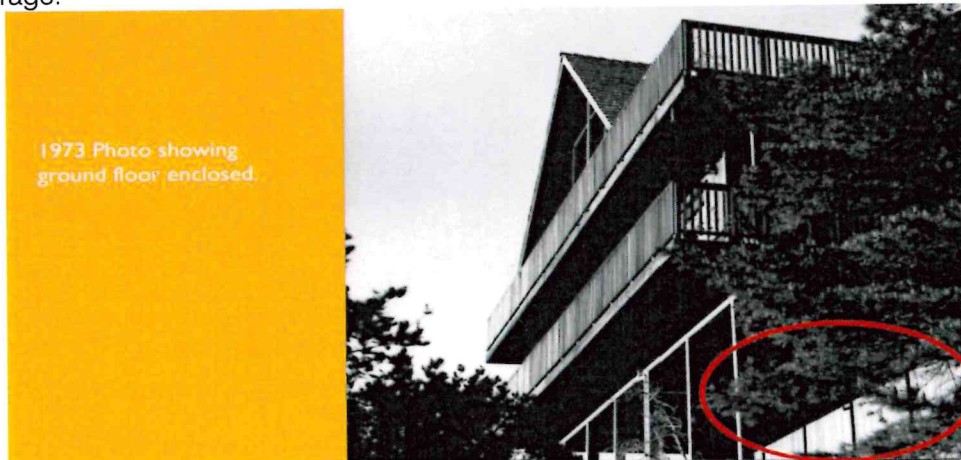


Figure 1. Existing Ground Floor Condition



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DISCUSSION

EXISTING LATERAL FORCE RESISTING SYSTEM

The existing lateral force resisting system consists of plywood floor and roof diaphragms with wood framed shearwalls (T1-11 and 3/8" Plywood) to resist deflection from seismic and wind loads. Lower sections of vertical posts are braced and bolted with diagonal lumber.

Roof and floor diaphragms are used to transfer loads to the external shearwalls or lateral force resisting elements of the structure. Table A1-D provides design capacities for existing Structural Systems as listed below.

[BS] TABLE A1-D
STRENGTH VALUES FOR EXISTING MATERIALS

| EXISTING MATERIALS OR CONFIGURATION OF MATERIALS* | | STRENGTH VALUES |
|---|---|--|
| | | x 14.894 for N/m |
| Horizontal diaphragms | Roofs with straight sheathing and roofing applied directly to the sheathing. | 300 lbs. per ft. for seismic shear |
| | Roofs with diagonal sheathing and roofing applied directly to the sheathing. | 750 lbs. per ft. for seismic shear |
| | Floors with straight tongue-and-groove sheathing. | 300 lbs. per ft. for seismic shear |
| | Floors with straight sheathing and finished wood flooring with board edges offset or perpendicular. | 1,500 lbs. per ft. for seismic shear |
| | Floors with diagonal sheathing and finished wood flooring. | 1,800 lbs. per ft. for seismic shear |
| | Metal deck welded with minimal welding. ² | 1,800 lbs. per ft. for seismic shear |
| | Metal deck welded for seismic resistance. ³ | 3,000 lbs. per ft. for seismic shear |
| Crosswalls ^b | Plaster on wood or metal lath. | 600 lbs. per ft. for seismic shear |
| | Plaster on gypsum lath. | 550 lbs. per ft. for seismic shear |
| | Gypsum wallboard, unblocked edges. | 200 lbs. per ft. for seismic shear |
| | Gypsum wallboard, blocked edges. | 400 lbs. per ft. for seismic shear |
| Existing footing, wood framing, structural steel, reinforcing steel | Plain concrete footings. | $f'_c = 1,500$ psi (10.34 MPa) unless otherwise shown by tests |
| | Douglas fir wood. | Same as D.F. No. 1 |
| | Reinforcing steel. | $F_y = 40,000$ psi (124.1 N/mm ²) maximum |
| | Structural steel. | $F_y = 33,000$ psi (137.9 N/mm ²) maximum |

EXISTING BUILDING LOAD PATH

Lateral forces are transmitted from upper parts of the structure down to the lower parts of the building during a seismic event. Force distribution is a function of mass and height, therefore, heavier buildings have larger lateral forces during earthquakes. The largest forces are present at the ground (often called the target) level. The force distribution begins at the upper floor/roof, and is transmitted first horizontally then vertically to the shear and bearing wall systems via roof and floor diaphragms

EXISTING LATERAL DEMAND

Since lateral demand is a function of mass, lateral demand simply stated is the lateral load the building will experience during an earthquake. From our work on similar projects, we anticipate the existing lateral demand for the subject building to be in the range of 20,000 - 30,000 lbs.





CAPACITY OF EXISTING BRACED WALLS TO BE REMOVED

FEMA P-807 provides us the *ultimate* capacities of existing wall assemblies and is shown below in Figure 2. The capacity of the existing bearing walls with T1-11 siding on the subject property is approximately 570 pounds per linear foot. The existing ground floor wall shown in Figure 1 (above) consists of 3/8" plywood with 8d nails at 6" centers (edge and field). Capacity of this existing wall is shown below in Figure 2 as 840 pounds per linear foot. This existing shearwall condition is showing in the 1972 permitted Engineering Plans shown below as Figure 3.

| Material | ID | Strength (pounds/linear foot) |
|--|-----|-------------------------------|
| Stucco | L01 | 330 |
| Horizontal wood sheathing or wood siding | L02 | 170 |
| Diagonal wood sheathing | L03 | 910 |
| Plaster on wood lath | L04 | 540 |
| Plywood panel siding (T1-11) | L05 | 570 |
| Gypsum wallboard | L06 | 210 |
| Plaster on gypsum lath | L07 | 400 |
| Wood structural panel 8d@6" on center | L08 | 840 |
| Wood structural panel 8d@4" on center | L09 | 1,110 |
| Wood structural panel 8d@3" on center | L10 | 1,690 |
| Wood structural panel 8d@2" on center | L11 | 2,190 |
| Wood structural panel 10d@6" on center | L12 | 1,070 |
| Wood structural panel 10d@4" on center | L13 | 1,500 |
| Wood structural panel 10d@3" on center | L14 | 1,990 |
| Wood structural panel 10d@2" on center | L15 | 2,510 |

Source: Table 4-1 (maximum strength values rounded to nearest 10 pounds per linear foot).

Figure 2. FEMA P-807 Ultimate lateral capacities of existing wall assemblies

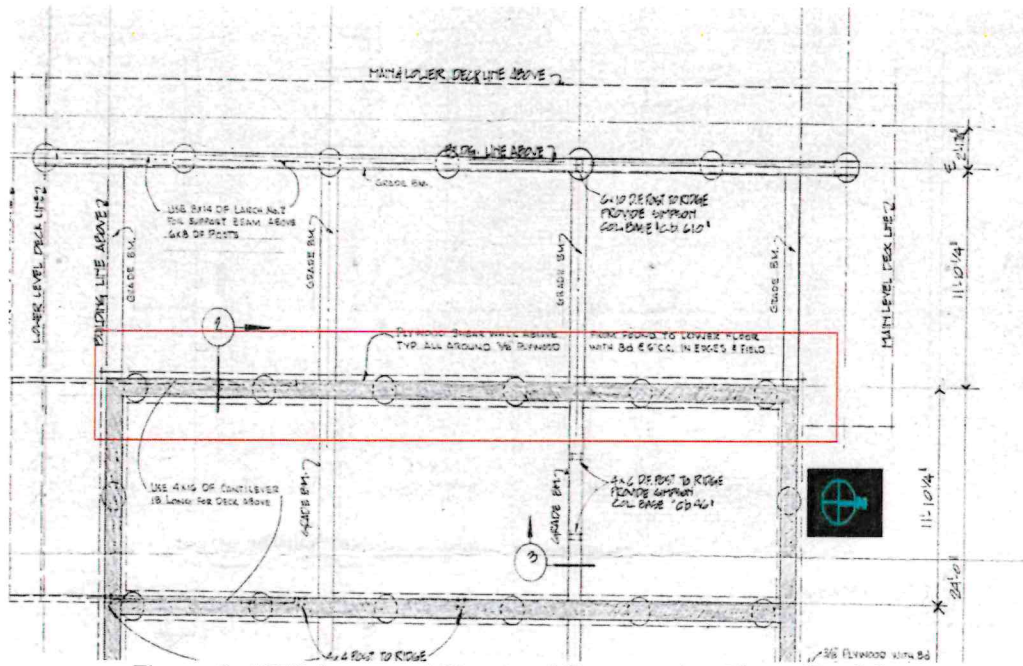


Figure 3. 1972 Approved Structural Construction Plans (Partial)

If you multiply the length of existing exterior walls by the ultimate capacities listed in Figure 2, you will determine the in-place lateral capacity of these bearing systems in each direction across each ground floor wall line.

East Ground Floor Wall to be Removed

With an approximate length of 44 feet in the north-south direction, the capacity of the existing east braced wall system is about 36,960 lbs.

West Ground Floor Wall to be Removed

With an approximate length of 44 feet in the north-south direction, the capacity of the existing west braced wall system is about 25,080 lbs.

North Ground Floor Wall to be Removed

With an approximate length of 12 feet in the east-west direction, the capacity of the existing north braced wall system is about 6,840 lbs.

South Ground Floor Wall to be Removed

With an approximate length of 12 feet in the east-west direction, the capacity of the existing south braced wall system is about 6,840 lbs.





EXISTING EAST GROUND FLOOR SHEARWALL EXISTS IN PERMIT RECORDS

The existing east ground floor shearwall (Figure 3) was shown on the original 1972 Structural Construction Plans prepared by Arthur J. Lang dated June 21, 1972. The removal of this wall would reduce the capacity of the buildings lateral force resisting system by 36,960 lbs. in the north-south direction, at the most critical location of the of lateral system.

REMOVAL OF EXISTING WEST, NORTH, AND SOUTH GROUND FLOOR WALLS

The removal of the existing south ground floor wall would reduce the capacity of the buildings lateral force resisting system by 6,840 lbs. in the east-west direction, at the most critical location of the of lateral system.

The removal of the existing north ground floor wall would reduce the capacity of the buildings lateral force resisting system by 6,840 lbs. in the east-west direction, at the most critical location of the of lateral system.

The removal of the existing west ground floor wall would reduce the capacity of the buildings lateral force resisting system by 25,080 lbs. in the north-south direction, at the most critical location of the of lateral system.

REMOVAL OF GROU FLOOR WALLS WILL CREATE A SOFT-STORY CONDITION

A building with adequate, well planned, and well-constructed shearwalls on the upper floors is still vulnerable if the lowest floor is unbraced. This condition is commonly referred to as a soft-story, Figure 4 Below demonstrates the means of failure of a building with a soft-story condition.

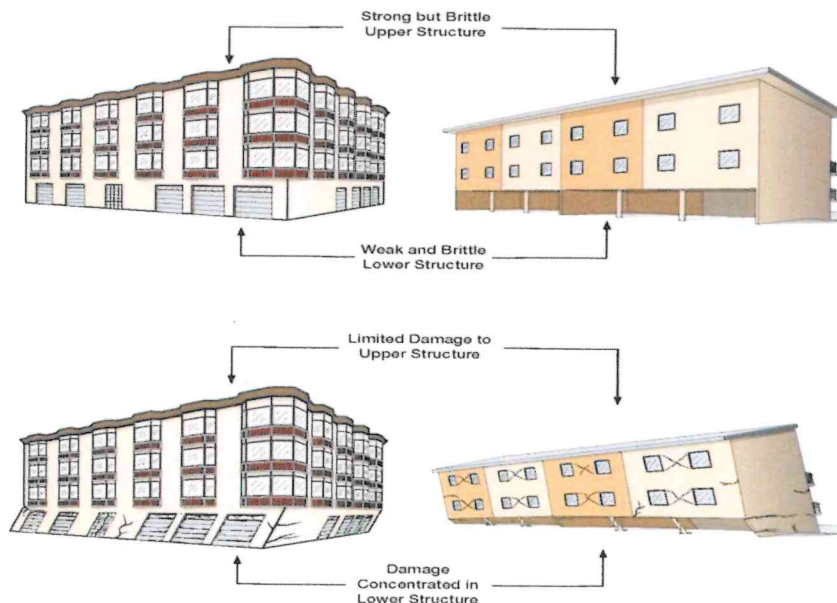


Figure 4. Typical Soft-Story

A lack of continuous exterior walls or of partition walls on the first story creates a considerable difference in lateral strength, stiffness and stability between the first story and the upper stories. During an earthquake, this difference exposes the first story to a concentrated lateral deformation in lieu of distributing it over the height of the structure. The concentrated lateral deformation is exacerbated by the building's pre-existing tendency to twist.

TOWN OF FAIRFAX PLANNING COMMISSION ACTION WILL CREATE A LIFE-SAFETY HAZARD

Per the October 18, 2019 Fairfax Planning Commission Notice of Action, the Town has denied a Conditional Use Permit for the ground floor, and effectively mandated that our clients demolish the floors and walls of the lower enclosed areas (See Figures 5&6). The removal or demolition of the ground floor diaphragms and bearing/shearwalls will create vertical out-of-plane hinge points and leave the remaining upper floors without the *most critical* part of their lateral force resisting system. The remaining structure would consist of unbraced wood posts and beams used to support vertical loads. The upper floors and unaltered structure would be susceptible to excessive deflection and heavy damage in a *moderate* earthquake. In the event of a *larger* magnitude earthquake, it is likely the building would *collapse*.

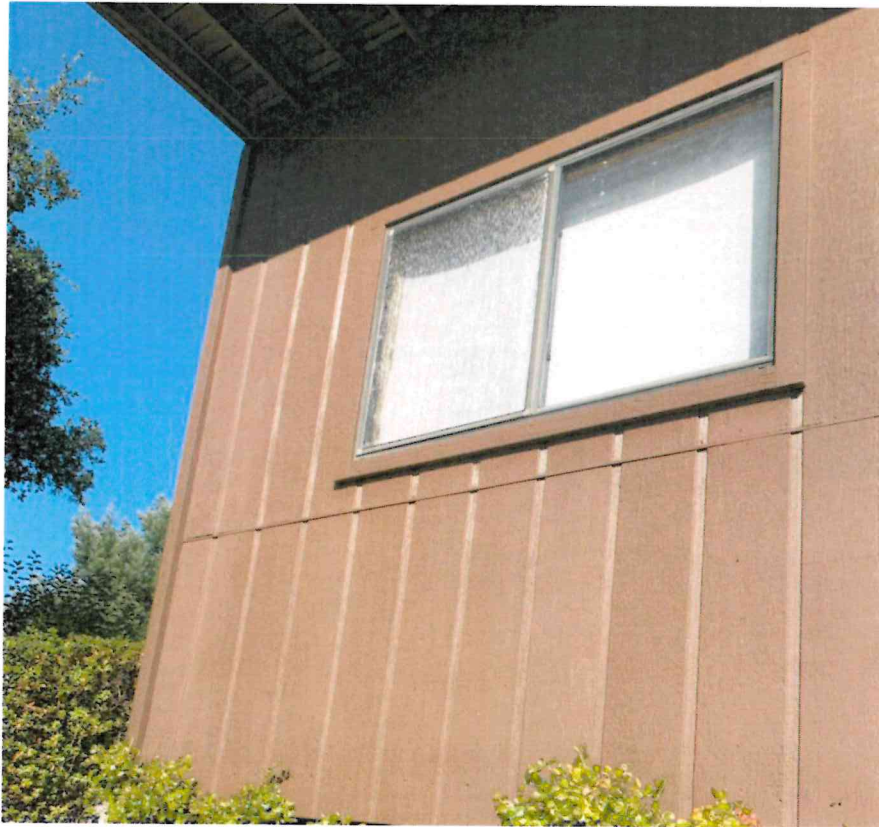


Figure 5. Ground Floor Western Wall to Be Demolished



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Figure 6. Ground Floor Western Wall to Be Demolished

EXISTING EXTERIOR GROUND FLOOR WALLS AND DIAPHRAGMS MUST STAY IN-PLACE

Removal of the existing ground floor walls concurrent with the Town of Fairfax Planning Action would create a substantial life-safety hazard. Furthermore, the removal of these braced walls would reduce the ultimate lateral capacity of the building by approximately **62,040 lbs.** in the north-south direction and **13,680 lbs.** in the east-west direction.

The existing wood posts have an effective “pin” base condition, and do not have ability to carry moment loads up to the deck connection points where lateral loads would be concentrated. Modification of these posts to create a base fixity would not be a worthwhile exercise, as they do not have adequate capacity to handle lateral forces and act as cantilevered columns.

Existing floor framing members and plywood diaphragms effectively brace the exterior ground floor walls out of plane. Removal of diaphragms and floor framing assemblies would leave the walls with an unsupported out of plane hinge point, therefore they must stay in place.

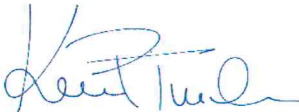
Observations and structural engineering consulting services have been performed in accordance with generally accepted structural engineering principles and practices. Statements and conclusions in this report are based upon exposed conditions and access available at the time of this report. No materials were removed or tested. The conclusions and guideline recommendations contained in this report have been made using a standard of practice and care customarily performed by Professional Engineers under these conditions and scope of available information. No guarantees or warranties, implied or explicit are or have been made, including consideration of site geologic stability, compliance with any Building Code provisions, and work performed



by other building contractors or design professionals. This report has been based on the particular concerns expressed to us by you at site. It may not be used by others without specific written authorization from the undersigned.

This report has been prepared under a written contractual agreement with the addressee, (client) indicated above. The information contained herein is for the exclusive use of the specified client. Any and all recommendations provided should be treated as preliminary only and are not intended as completed construction plans. Turbin Design Associates Inc. and Kelly P. Turbin shall assume no liability for other parties who use this report without express written consent of the undersigned. Please contact our office directly if any questions arise from this document.

Sincerely,



Kelly Turbin (C-73175)
Principal Engineer

